REPORT

OF THE

SELECT COMMITTEE ON ESTABLISHING AN ELECTORAL BOUNDARIES COMMISSION

JULY 1991

LEGISLATIVE ASSEMBLY OF NOVA SCOTIA

91-06569/

House of Assembly
Nova Scotia

July 3, 1991

The Honourable Ronald S. Russell
Speaker of the Legislative Assembly
of the Province of Nova Scotia

Mr. Speaker:

Re: Electoral Boundaries Commission

In accordance with Resolution 1681 passed by the House of Assembly on May 24, 1991, the Select Committee on Establishing an Electoral Boundaries Commission is pleased to submit its Report with recommendations for consideration by the Legislative Assembly of Nova Scotia.

Arthur R. Donahoe

Arthur Donahoe, Q.C.
Chairman
MLA Halifax Citadel

TABLE OF CONTENTS

		Page
I	Select Committee	
	(a) Composition	1
	(b) Mandate	1
	(c) Meetings and Public Hearings	2
	(d) Decision of Supreme Court of Canada in *Carter* v. *Saskatchewan (A.G.)* Respecting Electoral Boundaries	3
II	Recommendations	
	(a) Composition of Provincial Boundaries Commission	6
	(b) Terms of Reference for Provincial Boundaries Commission	6
	(c) Time for Completion of Report of Boundaries Commission	8
	(d) Periodic Review of Electoral Boundaries	8
	(e) Report and Recommendation for Establishment of Provincial Boundaries Commission	9
Appendices		
"A"	Resolution No. 1681	10
"B"	Transcripts of Meetings	13
"C"	Soliciting Public Input (i) newspaper advertisement (ii) form letter and list of those contacted by letter	166
"D"	List of Presenters of Submissions (Oral and Written)	170
"E"	Written Submissions	173
"F"	Report and Recommendation For Establishment of Provincial Boundaries Commission	234

I. SELECT COMMITTEE

(a) Composition

The Select Committee on Establishing an Electoral Boundaries Commission was established pursuant to Resolution 1681 passed by the House of Assembly on May 24, 1991 (App."A"). The Committee was composed of representatives from all three parties in the House: four Progressive Conservatives, two Liberals, and one New Democrat. Members of the committee, as listed in the resolution, were: Mr. Arthur R. Donahoe, Q.C., MLA, (Chairman); Mr. Jack MacIsaac, MLA; Hon. Guy LeBlanc, MLA; Hon. John Leefe, MLA; Mr. Ross Bragg, MLA; Mr. Paul MacEwan, MLA; and Ms. Alexa McDonough, MLA.

Mr. Reinhold Endres and Ms. Louise Walsh Poirier acted as co-counsel to the Committee. Mrs. Joan Kelly of the Legislature Committees Office acted throughout as Administrative Co-ordinator.

(b) Mandate

The mandate of the Committee was to report to the House within three weeks, by June 14, 1991, or as soon as possible thereafter, respecting:

(i) the composition of a Provincial Boundaries Commission on electoral redistribution,

(ii) terms of reference for the Commission,

(iii) a timetable for the completion of the Report of the Boundaries Commission.

It is to be noted that the function of the Select Committee was not to recommend constituency boundaries for an electoral redistribution. That will be within the mandate of the Provincial Boundaries Commission.

In discharging its mandate, the Select Committee was cognizant of the support of the House in principle for the following:

(i) a House of Assembly to consist of 52 members, plus one additional member representative of the Mi'kmaq people in Nova Scotia,

(ii) electoral boundaries addressing community of interest, including Acadian and Black communities, in the composition of the House, and

(iii) a member of the Black community, to serve on the Provincial Boundaries Commission.

(Resolution 1681, para.(e)).

Prior to reporting to the House, the Committee was to consult as many interested persons and groups as possible, including those in the Acadian, Black and Mi'kmaq communities.

(c) Meetings and Public Hearings

The Committee held seven public meetings, on May 28 and 30 and June 4, 6, 11, 13 and 20. (See App."B", Transcript of Meetings). The Committee also held in camera meetings on four occasions (June 25, June 27, July 2 and July 3).

To facilitate the mandate of the Committee to consult with as many interested persons and groups as it reasonably could, an advertisement (App."C") was published early on in all daily newspapers circulating throughout the province, as well as in the weekly press, soliciting the submissions of any person or organization wishing to present views to the Committee. In addition, individual invitations for submissions were sent to various individuals and organizations (App."C"), including representatives of the Native, Acadian, and Black communities in the Province, thought to have a particular interest in matters of concern to the Committee.

Oral and written presentations were received by the Committee, including presentations from private citizens and representatives of the Native, Black, and Acadian communities. Twelve written briefs were received by the Committee, many accompanied by oral presentations; four oral presentations were made to the Committee without supporting written submissions. (See App."D" and "E" for list of presenters and copies of written submissions).

The Committee is grateful to the individuals and groups who made oral and written presentations. Their views were helpful and important to the process and have been carefully considered by the Committee.

(d) Decision of the Supreme Court of Canada Respecting Electoral Boundaries

During the course of the Committee's meetings, the decision of the Supreme Court of Canada in *Carter v. Saskatchewan (Attorney General)* was rendered, on June 6, 1991, upholding the statutorily-enacted electoral map of the Province of Saskatchewan. This decision was vitally relevant to the mandate of the Select Committee and will have a crucial impact on the task of the Provincial Boundaries Commission. Aided by its legal counsel, the Select Committee reviewed the decision of the court and the effect of the decision has been taken into account in its recommendations.

The Supreme Court of Canada defined the right to vote guaranteed by s.3 of the *Charter* as a right to "effective representation", which foremost requires relative parity of voting power. Parity of voting power, though of prime importance, was not the only factor recognized as important for ensuring effective representation. Other factors like geography (for example, natural community dividing lines such as rivers and municipal boundaries), community history, community interests, minority representation, rate of growth projections and the difficulties of representing rural ridings as opposed to urban ridings were all recognized as potential factors which might have to be taken into account in drawing electoral boundaries to achieve "effective representation". The list is not closed.

The underlying approach adopted by the majority of the court was that "deviations from absolute voter parity may be justified on the grounds of practical impossibility or the provision of more effective representation. Beyond this, dilution of one citizen's vote as compared with another's should not be countenanced". The Court adhered to the proposition, that "only those deviations should be admitted which can be justified on the ground that they contribute to better government of the populace as a whole, giving due weight to regional issues within the populace and geographic factors within the territory governed".

The Court did not endorse any particular numerical deviation from average constituency size. It upheld the impugned electoral map of Saskatchewan on the basis that the deviations before the Court were justified by valid considerations.

The Court's specific endorsement of minority representation as a factor in "effective representation", and its concern to respect "cultural and group identity" in the mapping of electoral boundaries will be helpful to the Provincial Boundaries Commission in addressing Native, Black and Acadian representation in this Province.

II. RECOMMENDATIONS

(a) Composition of Provincial Boundaries Commission

The Committee recommends the Provincial Boundaries Commission be composed as follows:

(a) Professor Ronald G. Landes - Dartmouth, N.S.;
(b) Mr. C. Denne Burchell - Sydney, N.S.;
(c) Ms. Alphonsine Saulnier - Salmon River, Digby Co., N.S.;
(d) Professor Jennifer Smith - Halifax, N.S.;
(e) Mrs. Carolyn Thomas - East Preston, N.S.; and
(f) Mr. Sherman Zwicker - Lunenburg, N.S.

Professor Ronald G. Landes shall be designated chairman of the Commission.

(b) Terms of Reference for Provincial Boundaries Commission

In keeping with the constitutional right to "effective representation", the Committee recommends the following terms of reference for the Provincial Boundaries Commission in determining the province's electoral boundaries:

1. The primary factors to be considered by the Boundaries Commission to ensure "effective representation" are:

(i) of paramount importance, relative parity of voting power achieved through constituencies of equal population to the extent reasonably possible;

(ii) geography;

(iii) community history;

(iv) community interests;

(v) minority representation, including, in particular, representation of the Acadian, Black and Mi'kmaq peoples of Nova Scotia;

(vi) population rate of growth projections.

The Commission is to be guided by the principle that deviations from parity of voting power are only justified on the ground that they contribute to better government of the populace as a whole, giving due weight to regional issues within the populace and geographic factors within the territory governed.

2. After considering the preceding criteria, county boundaries should be followed where desirable, reflecting the historical use of county lines in delineating Nova Scotia's electoral map.

3. Based on the most recent population statistics available to the Provincial Boundaries Commission, the Commission is to delineate electoral boundaries to achieve a 52-member Legislative Assembly with an additional member to represent the Mi'kmaq people in Nova Scotia.

The Provincial Boundaries Commission is not to be governed by a predetermined population deviation factor or by a predetermined split between urban and rural ridings.

In considering the factor of minority representation, the Commission shall seek out the advice, support and cooperation of, in particular, representatives of the Black, Native and Acadian communities of the Province.

In the case of Native representation, the will of the Legislative Assembly of Nova Scotia to provide for an additional member in the Assembly to represent the Mi'kmaq people is a progressive and unique step, not just in this Province, but within Canada and in democracies elsewhere.

To facilitate a full appreciation of the wishes of the Mi'kmaq in Nova Scotia in this regard, the Provincial Boundaries Commission shall undertake a broad and thorough consultation with all native groups, and the native community at large, in this Province, before making its recommendation respecting a Mi'kmaq seat in the Legislature.

In discharging its mandate, the Provincial Boundaries Commission shall conduct such hearings, and hear such representations and consider such other information, at such times and places, as it deems advisable, respecting existing electoral districts and the establishment of new electoral districts in the Province, and the area, name, representation, and implementation of those electoral districts.

(c) Time for Completion of Report of Boundaries Commission

The Committee recommends that the report of the Provincial Boundaries Commission be completed and submitted to the Speaker of the House of Assembly on or before December 31, 1991, or as immediately thereafter as is reasonably possible, but in no case later than in time for consideration of the Commission's recommendations by the Legislature at the Spring sitting of the House of Assembly in 1992.

(d) Periodic Review of Electoral Boundaries

Although it is not within the mandate of the Select Committee to recommend automatic periodic review of the province's electoral boundaries, the Legislature may wish to consider enacting legislation providing for such reviews in order to ensure the Province's electoral boundaries do not become outdated, and possibly in violation of the Constitution, due to periodic population shifts. Many provinces already provide for automatic review after every second general election or every ten years.

(e) Report and Recommendation for Establishing the Provincial Boundaries Commission

The Committee has prepared a Report and Recommendation for the establishment of the Provincial Boundaries Commission, incorporating the preceding recommendations, attached hereto as App."F".

Arthur R. Donahoe

Arthur R. Donahoe, Q.C.

Jack MacIsaac

Jack MacIsaac

Guy LeBlanc

J. Leefe

John Leefe

Ross Bragg

Ross Bragg

Paul MacEwan

Paul MacEwan

Alexa McDonough

July 3 , 1991

APPENDIX "A"

RESOLUTION 1681

MOVED BY: The Honourable Member for Pictou East, the Premier of Nova Scotia

Mr. Speaker, I move with the concurrence of the Honourable Member for Cape Breton South and the Honourable Member for Halifax Chebucto at this time that the House do resolve:

(a) that the House declare pursuant to the Rules and Forms of Procedure of the House of Assembly that a Select Committee be established to report to the House respecting

(i) composition of a Provincial Boundaries Commission on electoral redistribution,
(ii) terms of reference for the Commission,
(iii) a timetable for the Commission to complete its report;

(b) that the Select Committee be composed of the following members of the House:

(i) Arthur R. Donahoe, Q.C., who will Chair the Select Committee;
(ii) Jack MacIsaac
(iii) Guy LeBlanc
(iv) John Leefe
(v) Ross Bragg
(vi) Paul MacEwan
(vii) Alexa McDonough;

(c) that the Select Committee complete its report to the House within three weeks or as soon as possible thereafter;

(d) that the Select Committee consult as many interested persons as it reasonably can, including persons in the Acadian, black and Micmac communities;

(e) that the House declare, for the guidance of the Select Committee, its support in principle for:

(i) a House composed of 52 members plus one additional member who would be representative of the Micmac people in Nova Scotia,
(ii) the need for boundaries that address community of interest in the composition of the House, including the Acadian and Black communities,
(iii) the importance of having a person from a minority group serve on the Provincial Boundaries Commission, on this occasion to be a person from the Black community;

(f) that notwithstanding the said Rules or any rules of the House, the Select Committee of the House be empowered to examine and inquire into all such matters and things as may be referred to it by the House, and from time to time report to this House its observations and opinions thereon, and the Committee be further empowered to send for and examine witnesses, papers and records, and to extend to any witness the protection of the House and to obtain such assistance as it deems necessary;

(g) that all the powers and privileges under the House of Assembly Act and amendments thereto and the Rules of the House applicable to Standing and Select Committees while the House is in Session shall apply and be of full force and effect during the sittings of the Select Committee;

(h) that the Legislature Internal Economy Board be authorized to provide the Committee, its members and staff with such facilities and funds as are required to carry out their duties and as are provided for by and pursuant to Section 80 of the Public Service Act.

APPENDIX "B"

HANSARD

14

NOVA SCOTIA HOUSE OF ASSEMBLY

COMMITTEE ON ELECTORAL BOUNDARIES

Tuesday, May 28, 1991

RED ROOM

Initial Meeting

Printed and Published by Nova Scotia Hansard Reporting Services
(Editor - Rodney Caley)

ELECTORAL BOUNDARIES COMMITTEE

Mr. Arthur Donahoe (Chairman)

Mr. Jack MacIsaac

Hon. Guy LeBlanc

Hon. John Leefe

Mr. Ross Bragg

Mr. Paul MacEwan

Ms. Alexa McDonough

In Attendance:

Mrs. Joan Kelly
Legislative Committees Clerk

OBSERVERS

Mr. William MacDonald, Deputy Attorney General

Mr. Reinhold Endres, Director (Civil), Legal Services Division

Ms. Louise Poirier, Solicitor, Legal Services Division

MR. ARTHUR DONAHOE (Chairman): I want to welcome everybody to the first meeting of the Select Committee on the Establishment of a Provincial Electoral Boundaries Commission. This is very much a preliminary meeting. As everybody knows, we are operating under a very tight time constraint that has been imposed upon us by Resolution No. 1681, which establishes the committee.

We have three weeks within which to report back to the House respecting the composition of a provincial boundaries commission on electoral redistribution, terms of reference for the commission and a timetable for the commission to complete its report. We have a heavy task to perform in a very short period of time.

At this time, I would like to welcome to the meeting Mr. D. William MacDonald, the Deputy Attorney General, Ms. Louise Poirier of the legal staff of the Department of the Attorney General and Mr. Reinhold Endres, who is also a member of the legal staff in the Department of the Attorney General.

Members of the committee will be aware that the whole matter of electoral boundaries and redistribution of constituencies has become very much, in addition to a political matter, a legal matter by virtue of the fact that the Canadian Charter of Rights and Freedoms is now in place. I have arranged to have distributed to the members of the committee decisions of the Supreme Court of British Columbia and of the Supreme Court of Saskatchewan, relating to the redistribution plans in those two provinces.

In order that we get a proper understanding and interpretation of those decisions I am going to suggest to the committee that at an early time we invite Ms. Poirier and Mr. Endres to prepare for us summaries of those decisions and to speak to the committee with an outline of their views as to just what those decisions decided and what effect, if any, they might have on the work that would be carried out by a Nova Scotia Electoral Boundaries Commission. I think that would be a very helpful assist for the members of the committee and will enable us to have an understanding of what effect the Charter of Rights and Freedoms might have on the work of an Electorial Boundaries Commission.

There are also some principles that the House agreed to when it passed the resolution last week. The House has indicated its support for a House composed of 52 members, plus one additional member who would be representative of the Micmac people in Nova Scotia; secondly, the need for boundaries that address community of interest in the composition of the House, including the Acadian and black communities; thirdly, the importance of having a person from a minority group serve on the Electoral Boundaries Commission, on this occasion to be a person from the black community.

I think we have to determine how we can best address the community of interest in the composition of the committee, which then has to direct itself to a community of interest throughout the province in determining the electoral boundaries. We are specifically directed that we should recommend a person from the black community to be a member of the boundaries commission.

All that is by way of preliminary. I have no set plan, I do not think that it would be appropriate and I do not think it is necessary or appropriate or required, indeed, that this committee hold public hearings. But it may be that members of the committee will want to suggest that we hear from representatives of community groups throughout the province. If so, I think within the three week time limit within which we have to operate, we can arrange to hear representations that individuals or groups might want to make. I do not think we need have a lot of those, but again we do not want to fail to hear from anybody who might be interested in suggesting to us what sort of recommendations we can make and what guidelines we can use to direct the boundaries commission.

I have gone on at some length in a preliminary kind of way. I am now open to suggestions from any member of the committee as to how we should proceed and just what steps we should take to proceed in an orderly manner so that we can get our job done as effectively and efficiently as possible.

HON. JOHN LEEFE: Mr. Chairman, in view of the time constraints placed upon us and the fact that the House is sitting and we have those additional constraints, I would suggest that we should endeavour to meet, if at all possible, on a daily basis, each of us to take an hour or however much time is necessary out of the House to come over here and work on this matter until we come to a resolution.

I would think that we should be able to find that much time out of each of our days across the way and that will give us opportunity to expedite this matter. It also will make it possible for us very quickly to identify any person or persons whom we may wish to bring forward to talk to us prior to making our recommendations to the House and that is something that should be done very quickly as well.

MS. ALEXA MCDONOUGH: I certainly have no objection to that. I guess perhaps if we could agree on a bit of give and take, because whichever side of the House you are talking about, it is impossible to determine the exact timetable from day to day as to where we will be at any given hour, but as long as there is some agreement about cooperation to try to accommodate all sides of the House on that, I think it is the most sensible course to try to make steady progress and there are a number of different processes that I think we have to be prepared to engage in.

I certainly think it would be helpful to have a legal briefing, if that is the right terminology, of the case law that affects this issue. As well, I would hope, perhaps a decision, I do not know whether it is in order to put a motion on the floor, that there be some immediate notification go to particularly the groups that may have particular interest in having some views considered, before we actually strike the terms of reference for the Electoral Boundaries Commission.

[2:45 p.m.]

As indicated in the resolution itself, I think that certainly would include the Micmac community, the Acadian community and the black community. Perhaps we should be prepared to give notification in two ways; one, through some issuing of a public statement or even small ads that could be placed in a few key publications, as well as notification to the main organizations that are not infinite in number, by any means, but probably in each case three or four organizations that are broadly representative of those communities, inviting them to inform people.

I think it is quite important that the terms of reference for the Electoral Boundaries Commission be struck only after there is some direct consultation with those communities of interest.

I think it also should not be assumed that those are the only communities of interest that should be consulted, perhaps in a more general way through an ad or a public statement.

MR. CHAIRMAN: Well, I agree with what you are saying except that I do not think we want to go too far afield. We are not going to be determining the boundaries ourselves. I do agree that we want to hear from representatives of the various communities you have identified and which are identified for us by the resolution.

At the same time, I do not think we want to advertise. I think what we should do, because we have such a short timeframe within which to work, is maybe we can identify specific groups who are representative of these various communities and that I, on behalf of the committee, could write to them right away, indicate the terms of reference, what we are doing, and say we are very interested in hearing from you, if you are interested in appearing before us, and explain to them there is a very short timeframe and that we cannot have wide-ranging public hearings but we are interested in their input.

So I am going to ask members of the committee if they would identify to me groups they think would be appropriately contacted by me by letter. I will get a letter out just as fast as I possibly can and then we will wait for a response for a reasonable time. Then based on that, we will then have to schedule a number of meetings to hear from these groups.

I would ask them specifically not to appear with large delegations but just to send a representative or two to come in and speak to us in an informal kind of a way, so we could get their input and have it available to us. Does that suggestion commend itself to the committee? Is that okay by you, Alexa, as an approach?

MS. MCDONOUGH: It seems perfectly reasonable although it does seem to me there ought to be, even if it is just in a press statement, that hopefully might be widely circulated, so there is not an assumption that we have identified the only communities of interest that ought to have an opportunity for consultations.

MR. CHAIRMAN: I am not suggesting this in an effort to exclude anybody, no.

MS. MCDONOUGH: And it would obviously be quite important in that communication to make clear that what we are really inviting people to address is a two stage process and try to define what the first stage is, as opposed to the wide open, wide-ranging public hearings that the Electoral Boundaries Commission will be holding, so that we do not create confusion in people's minds and confusion for ourselves in handling that.

HON. GUY LEBLANC: Dealing especially with the community interest groups, the blacks, Acadians, and Micmacs, I think the appropriate thing would be to write a letter immediately from the Chairman to these organizations, indicating what we are doing.

However, I think in the best interests of everybody, the committee, in the process, that public notice of some kind should also be put forth, either, for example, in Le Courrier and Micmac News, on behalf of the Micmacs, which then would make the process public to everybody.

I am afraid, especially in these groups, that we, as committee members, may inadvertently exclude somebody who would like to present their views to the committee.

I fully realize that in a short timeframe that might be very difficult to do. So I would, in order to protect the integrity of the committee, suggest that we identify a couple of media areas where we can provide that kind of a public announcement, so that it becomes public, rather than we select a few of the interest groups and maybe miss one or two that would reflect, I think, badly on this committee and on what this committee is attempting to do.

I fully realize that most of these are weekly papers so it would have to be done immediately and I would imagine before we have our report, those people would have time enough to respond to that kind of a public advertisement.

MR. ROSS BRAGG: I think, a couple of points as I listen to the discussion. First of all, I am concerned that there is a sense that this has to be done in three weeks or we have failed.

MR. CHAIRMAN: We are directed to by the resolution.

MR. BRAGG: Now, Mr. Chairman, first let me say this, that your job as chairman is to run the meeting, not to steer the committee in any certain way. With all due respect, your comments so far are steering this committee into a direction. My point is that it says three weeks or as soon thereafter. I would think that we would be doing an injustice to this process if we did not make sure, as the member for Clare suggested, that we get an ad in these papers, and not limit ourselves by saying, well, if we are not done in three weeks we are in trouble.

I think that if it takes four or five weeks, we have lost nothing. It just means that it is an extra couple of weeks. I think this is too important for us to just say, well, we are going to rush this through. I think we should place some ads in the weeklies and in the daily papers to advise that this is a select committee to establish a commission. When they contact you or the committee's office, you could explain to them that if there interest is on specific redistribution, then they should come to the commission when it is set up.

But at this point, we do not want to limit ourselves so we could ever be accused of not allowing full access to the committee. I do not think it is going to hurt anything and I think it is not going to extend our deadline that much. I am concerned that the appearance of rushing this committee and limiting it to three weeks would be wrong, at a time when people are pretty skeptical of some of the things we do here.

There is no real harm that could be done by just taking a little more time, or at least taking the attitude that we have a little time. If it means that it is going to take an extra week to get the ads in the paper and so we have to extend it, I do not have a problem with it. Probably the House will rise before we have completed our job, anyway, if things go as scheduled, or very close thereafter. So really, I do not think the agenda or the timing has anything to do with our job.

I realize that we do not want this to drag on for six months but let us not rush this for the sake of trying to expedite somebody's wishes. Let us just proceed with this as we should, allow appropriate public access to our committee. We do not know all the special interest groups that may want to come or communities of interest or anything that may come up. If we try to hold it and limit it, I think we will do an injustice to this process.

I do not want to sound obstructive because I think the committee can work well. But I do think that our first mistake would be trying to set our goals on a clock instead of on trying to get the job done right.

MR. PAUL MACEWAN: I would like to take up where Ross has left off. I think this exercise is too important to be done in any way other than the right way. Haste makes waste. The terms of reference do not state that we have to have the job finished within three weeks. It is within three weeks or as soon as possible thereafter.

We are also instructed, simultaneous with that, to do a great deal, to cover a great deal of territory.

MR. CHAIRMAN: Not really.

MR. MACEWAN: Not really? Well, Mr. Chairman, I was on the select committee of 1977-78, whose report you have circulated. I can tell you, sir, that that committee reported in March 1978, after having been established the preceding spring. Its work covered the same subjects that this committee is attempting to canvass now, I believe, more or less. The legal picture now is more complicated than it was then and I do not believe it would be proper to approach this in a way that could result in a rush job that would not be properly done. That is all I am saying on that point.

In terms of being available here daily, I am available when the House is sitting, no problem. I would appreciate having summaries of the Saskatchewan and B.C. decisions prepared by our legal counsel. I would like to have them in some context to where they stand right now with reference to the Supreme Court of Canada. I would like to have some research done for us on the implications of Section 1, Section 3 and Section 15 of the Canadian Charter of Rights and Freedoms, with respect to the matters before this committee.

I am well familiar with the 1978 report. It established a formula; it established principles; it established toleration factors up and down, which were laid out as being 25 per cent. I dealt with the rural versus urban question. I know these issues and they are not simplistic issues that can be just dealt with in one quick afternoon.

MR. CHAIRMAN: No, but they can be identified easily, Paul, is what I am saying. Then we allow the commission to use its judgment in relation to those matters. What I am saying is, and I did not mean to disagree with you, I agree we have a very important task, but I think it is not our duty to define positions on these various issues. It is our duty, simply, to identify these issues as factors that the commission will look at in its determination and in coming to its conclusions. I do not think we have precisely the same task before us as was before the Boundaries Commission in

1978. I think the terms of reference of that commission were, perhaps, somewhat broader than the terms of reference that have been given to us.

I am not in any way saying that to minimize the importance of what you have said or the importance of the issues that we face, but I think we can, perhaps, move very expeditiously and get this commission on its way. We are in a situation where there is some serious legal question about the validity of the existing constituency boundaries in the Province of Nova Scotia. We are also in a situation where an election could happen at virtually any time. It seems to me that the more expeditiously we move, the more we might accomplish what I consider to be a very important public good, namely, setting up a commission which can move to remove some of the difficulties that might be faced.

We are in a situation where there could be a legal challenge to the existing boundaries. So far none has surfaced but there have been invitations in the press and elsewhere that this be done. I think that unless we move fairly quickly on this, and it may be that we need a little more than three weeks, that is a possibility, I think we should endeavour to live within the timeframe that has been suggested to us. If it becomes apparent after two and one-half weeks that we cannot do it in three weeks, then we should say we need more time. I do not think we should start at the outset by saying, hey, we need more than three weeks. Let's wait and see two and one-half weeks from now how far we have advanced and then determine if we need a little extra time.

MS. MCDONOUGH: Yes. I would be concerned that there be any pulling back from what was an all-Party agreement, first of all, to arrive at this resolution and then the unanimous consent given in the House that we work to try to achieve that objective of three weeks, or soon after, as possible. I mean, I think it is clear that we can drag it out too and not meet that timetable without very much difficulty. But if we can set that as our objective and try to achieve it as closely as possible, surely, democracy is better served by it. The reality is that we are in a situation where, almost certainly, the existing boundaries would be found to be unconstitutional. I am sure others have sought legal counsel, as we have.

Frankly, the reason that we decided to push hard politically on this issue is because our legal counsel indicated that, yes, there is undoubtedly a legal constitutional challenge here that would be upheld in the courts. I mean, you cannot ignore the law. We are going to hear a briefing on that. We are in the ridiculous situation that if we, as a House, fail to address this question, we are likely to set ourselves up for a whole set of court proceedings that, surely, is both costly, complicated and unnecessary and just makes us all look like we cannot get our House in order, so to speak.

This is a question, Mr. Chairman, and I am not sure if it is a practical question or a procedural question, really, in the terms of reference that were adopted for this select committee. The indication is that we would endeavour to report within three weeks to the House. In the event that we do not succeed in meeting that exact timetable, is it assumed that any report that we do arrive at, if it were not finalized until after the House had actually prorogued, that a report would be delayed until the House sat again in the fall before there could be any movement on the Electoral Boundaries Commission?

MR. CHAIRMAN: No, that would certainly not be, in my mind, the right way to go. I think we should finish our work within three weeks, if possible, or as the resolution says, as soon as possible thereafter. If the House rises before we finish, we should carry on, get our work done and file our report. I do not anticipate that the House will prorogue. I think the House might possibly adjourn before we finish.

Again, and here we are going to have to take some legal advice, as to the manner in which the recommendations that we make respecting the composition, terms of reference and timetable for a boundaries commission, can be translated into a directive to establish a commission. I think we will want to take advice as to whether a statutory enactment will be required to set up the commission or whether there is already in place a legislative framework within which that can be done by Order in Council, if the government accepts the recommendations of this committee.

Since this is an all-Party committee and will have the approval, I hope, in final form of all the Parties represented in the House, presumably there should not be any difficulty in the government accepting our recommendations and going with them, either by way of passage of a Statute if that is necessary, and it may not be, or by establishing by Order in Council the commission to actually carry out the work of defining the boundaries.

So we want to hear some advice on that point, I think, from our legal advisors. If it requires legislation to enact our recommendations, then I think we should recommend that the House be recalled in order to do that, so that the process can be initiated, so the commission can get working just as quickly as possible.

MR. MACEWAN: Well, Mr. Chairman, as we know, any amendment to the House of Assembly Act can only be done by the House, itself.

MR. CHAIRMAN: True.

MR. MACEWAN: That is what is required when you are changing or revising electoral boundaries in the final analysis.

MR. CHAIRMAN: That is right.

MR. MACEWAN: All the other stages are mere preliminaries. The final decision is made by the House, itself. My concerns, Mr. Chairman, are twofold. We have been instructed to report to the House respecting terms of reference for the commission. Now, that may be very few words. It is my view that there is a very weighty responsibility contained in those words, because we may recommend names of persons to serve as commissioners, and I anticipate a fairly large commission this time, possibly the largest we have ever had.

MR. CHAIRMAN: I beg your pardon?

MR. MACEWAN: I anticipate a very large commission this time, possibly the largest we have ever had in the history of Nova Scotia.

MR. CHAIRMAN: Your views and mine are diametrically opposed on that point.

~ 23

MR. MACEWAN: It remains my view and I will defend that to anyone, Mr. Chairman. I am only anticipating.

MR. CHAIRMAN: Sure, okay. We will have some interesting discussion on that point then.

MR. MACEWAN: Regardless, those commissioners can be basically given by us one of two scenarios, whether it is just one commissioner or whether it is a platoon of them. They can be given a blank cheque to do whatever they wish or we can give them specific terms of reference. That is a point on which I think committee members ought to reflect.

There are many questions that arise, the rural/urban thing, the constitutional aspect, the desirability of maintaining counties as the basis of representation in Nova Scotia, which has been our guiding principle in this province up until now. I feel that those matters have to be looked at by this committee in the course of its deliberations.

MR. CHAIRMAN: Definitely, I would certainly agree with you on that.

MR. MACEWAN: I am not going to belabour that, I just want to express my views on that point. The second matter is that we have also been instructed by the House to consult "as many interested persons as it reasonably can, including persons in . . .", and then the Acadian, black and Micmac communities are mentioned. But that is an inclusive, not an exclusive, reference.

For example, we are consulting immediately with legal advisors, they are interested persons very obviously. We need their advice and assistance. I do not know really what that phrase means. Maybe I am raising this as a question, rather than as something I am going to pronounce judgment on. But what are we to do to comply with subsection (d) of Resolution No. 1681, in the course of our deliberations? That is something we must look at, Mr. Chairman, because if, perhaps in happenstance, we did not really do that, would we then be fulfilling our mandate properly?

MR. CHAIRMAN: Well, if I can suggest an interpretation of that, simply by saying to members of the committee that if there is any individual or group of individuals whom they think could make a useful presentation to us, then please suggest that individual or group. And if it is the wish of the committee, then I would certainly include that group or that individual as being among those from whom we should hear and would contact that group or individual and ask if they want to appear and make a presentation to the committee. I would be more than willing to do that.

MR. MACEWAN: Well, certainly the legal advisors, to me, would seem first and foremost. That is number one, in my view.

MR. CHAIRMAN: Yes, that is right, this occurred to me and that is why I asked Mr. MacDonald and Ms. Poirier and Mr. Endres to be here today, just so they could sit in and hear what general trend the committee is taking. I think if we can agree that the legal side of the picture should be the first aspect we explore, maybe we could agree on asking them to come back and make a presentation to us at an early date. The date I have in mind is Thursday afternoon (Interruptions) for a meeting at 2:30 p.m. on Thursday here. Anybody on this committee on the Law Amendments Committee?

24

MS. MCDONOUGH: Could we not agree to meet after Law Amendments Committee finishes?

MR. CHAIRMAN: Ross, do you know what is on the agenda for Thursday?

MR. BRAGG: What they want to talk about is Bill No. 135 but it has not finished second reading yet. It has not been moved to go to the Committee on Law Amendments, so I do not even know that we will have anything to do. It is our first meeting of the new committee.

MR. CHAIRMAN: Well, second reading of bills is not scheduled for today and tomorrow is Opposition Day, so it is not likely you will have much on your plate. I will ascertain further details.

MR. MACEWAN: I just wanted to mention this, the Chief Electoral Officer might be someone that we might also want to consult with at some point. However, Mr. MacDonald is the former Chief Electoral Officer of Nova Scotia and, in my view, knows electoral matters in Nova Scotia better than anybody else in this province. So if he is going to be acting as our legal advisor, I would say that I would be quite satisfied that he could also deal very competently with the electoral aspect of it.

MR. CHAIRMAN: Yes, well I certainly agree with that. The present Chief Electoral Officer is not in very good health unfortunately and I am not sure whether she would be available to assist the committee, which is, I think, unfortunate. But I agree maybe we should ask Mr. MacDonald to make a presentation to us. In addition to his legal staff, we should ask him to speak to the committee. Is that agreeable?

MR. MACEWAN: Would he be counsel to the committee? We had Graham Walker as counsel to the 1977-78 committee and he was at the table at every meeting. We found his presence most helpful. I think it would be most helpful here if we had . . .

MR. CHAIRMAN: I agree with that but Mr. MacDonald is also the Deputy Attorney General and, as such, I know there are fantastic demands on his time. Maybe we could ask, with his concurrence, that Ms. Poirier and Mr. Endres become co-counsel to the committee and that way, if they both cannot come, one or the other of them could be here for our meetings and we would have the benefit of very competent and capable legal advice at all times. They would, having the access they do to Mr. MacDonald, be able to consult with him and get the benefit of his good advice.

So I think if we were to ask Mr. MacDonald to be counsel, we might be pushing a little too hard. However, I know from having conversed with Mr. MacDonald that he is willing to be as helpful as he possibly can to us in our work. I know we should be grateful to him for that. Does that suggestion commend itself to the committee, that we ask Mr. Endres and Ms. Poirier to be co-counsel?

MS. MCDONOUGH: I am sure we are all agreeable to that. Without meaning to put them on the spot, is it reasonable to ask whether that is a feasible proposition from the point of view of work responsibilities and work load demands and so on?

MR. CHAIRMAN: Reinhold?

25

[It was agreed that the lawyers from the Attorney General's would assist the committee.]

MR. MACEWAN: Is that agreed then?

MR. CHAIRMAN: Is that agreed? Okay, great.

MR. MACEWAN: Well, since they are coming in on Thursday, Mr. Chairman, I would like to indicate what I would like them, anyway, to update the committee on. The first and foremost question in my mind is what true significance ought to be attached to the decision of the Saskatchewan Supreme Court. I state that with reference to the fact that that decision is now under appeal, I understand it, or is going to be appealed to the Supreme Court of Canada . . .

MR. CHAIRMAN: The case has been argued before the Supreme Court of Canada and they reserved judgment and the judgment will come whenever the court is ready to deliver it.

MR. MACEWAN: Well, that judgment could be of critical significance because if it upholds the Saskatchewan decision, then you have a whole new ball game for, I guess, all of Canada. On the other hand, if the Saskatchewan decision is quashed, or in any way amended, then you do not.

MR. CHAIRMAN: From a practical point of view, Paul, I think we have to operate as if we are not going to have that decision before we finish our work. As I understand it, the argument was held toward late April in the Supreme Court of Canada and it is unlikely that we would have a decision out of the Supreme Court of Canada before three weeks from now. Now it may be available for the guidance of the commission itself, the decision may be down before the commission finishes its work but I doubt very much that we will have the benefit of it.

So we will have to go on the basis of the decisions of the Court of Appeal of Saskatchewan and the decision of Madam Justice McLachlin, as she then was, in the Dixon case in British Columbia. Interestingly enough, you may or may not be aware of this, Madam Justice McLachlin is now a member of the Supreme Court of Canada and is one of the judges who heard the Saskatchewan appeal when it was argued in the Supreme Court.

MR. MACEWAN: Mr. Chairman, who is going to act as secretary of this committee?

MR. CHAIRMAN: Well, I had been relying on, or using the services of, Mrs. Kelly of the Committees Office to help me with notices for this meeting and intended to continue to use the Committees Office as support.

MR. MACEWAN: But in terms of the drafting of a report, normally with the committees, someone is attached to them as a secretary to note the various recommendations and conclusions as they are reached, and then draw them up in the form of a report.

MR. CHAIRMAN: Well, I was thinking that our legal advisor would also double in that capacity and assist in the drafting of our report. I do not think we need anything like the excellent historical review that was included in the report of the 1978 committee. I recommend that to all members of the committee. It is an excellent piece of work, a very good researched work, and as I understand it, authored by that well known journalist, Mr. Harry Flemming, who did an excellent piece of research and put together a very well written report. If it is possible to make the matter of redistribution of electoral boundaries interesting, Harry did that, in that report. I do not envisage us doing anything like that at all, Paul. I do not think there is any need for us to.

MR. MACEWAN: Well, that is part of the permanent records of our House and Harry spent the better part of a year on that assignment. He was made the full-time executive secretary to the committee and worked right through the winter and into the spring in an office that was set up for him. There was a great deal of laborious research involved.

MR. CHAIRMAN: It is a good piece of work.

MR. MACEWAN: Harry used the Dominion Census Statistics and attempted to corelate them to the electoral districts in Nova Scotia. I think that we were needlessly complicated in doing this. We could very easily have used the electoral statistics from the most recent provincial election. I would suggest that this committee could perhaps do that as a much simpler way of finding out what the population is that you are dealing with. But there is a problem. We have had almost three years now pass and those figures are, to that extent, out of date. That was the approach that this committee took, the census statistics.

It was found interestingly, Mr. Chairman, after this committee came out with its report, and then the commission reported later on, it was found that the committee's statistics had been an error in quite some number of instances. They had not been based on the actual boundaries. Rather on census districts which were carved up to try to make boundaries into the ridings. I have blathered enough on that I think.

MR. CHAIRMAN: I understand the Law Amendments Committee is meeting on Thursdays at 2:30 p.m. As we do not want to infringe on the work of the Committee on Law Amendments, if we met at 4:00, would that be agreeable?

MS. MCDONOUGH: We could meet at 4:00 and if that committee takes a little bit longer then as soon as the Committee on Law Amendments is finished . . .

MR. CHAIRMAN: We can be flexible Yes. Okay. Reinhold, is that okay by you and Louise, 4:00 p.m. on Thursday? Okay. All right.

MS. MCDONOUGH: Mr. Chairman, are you proposing to bring back a draft letter in a proposed ad by that committee meeting on Thursday?

MR. CHAIRMAN: I can do that. Meanwhile, I would like to hear from members of the committee with their suggestions as to the people and groups to whom the letters should go. Yes, I will put together a draft letter in a proposed advertisement.

MR. BRAGG: Are we going to have a motion to deal with any of these things?

MR. CHAIRMAN: Well, I would prefer, as much as possible, to operate by consensus. If we do get into some divisions of opinion, then we will have to revert to a more formal method of approach. I intend to be, Ross, a full participant in the discussions that take place, but otherwise, to conduct myself as Chairman, but I am going to throw my two cents worth in from time to time.

MR. BRAGG: It is appropriate for you as a committee member to have some input, but as I mentioned earlier, I do not think you should appear to be steering the committee.

MR. CHAIRMAN: No, no. I have some definite thoughts, which I will not hesitate to put forward, but do not get me wrong, I am not trying to steer us in any particular direction at all.

MR. BRAGG: Do we have consensus on this advertising question for some ads to be placed as soon as possible?

MR. GUY LEBLANC: I put all my confidence in the Chairman if he so wishes to have an advertisement, drawn up, as such, and circulated to the members. I do not see the real need for the public advertisement to wait until next Thursday because a lot of those weekly newspapers have their deadline by Friday evening. If we could circulate that to those appropriate papers at the appropriate time, those people would have an extra week in order to prepare and also in order to help us meet our deadline.

If the Chairman of the committee is in agreement, I would leave that particular aspect up to the Chairman to prepare an ad and if he so wishes, to circulate to the members for their approbation, if they want to verify it before he sends it out.

MR. CHAIRMAN: Okay, I will try to get that done quickly then.

MS. MCDONOUGH: I am fully agreeable that we do that in order to expedite. The only thing I would say, and I do not mean this in any way to be a lack of confidence in the Chairman, but just to, I guess, reiterate a point I made earlier. A certain way to totally frustrate our expediting process would be to create inadvertently any mistaken impression about what the terms of reference are for the select committee. In other words, if the interpretation of the ad, because it was not crystal clear, was to be, in the minds of some people, that this is where people should come to argue the details about the alignment of boundaries, then we will have created a log jam that will be certain to make our task impossible to achieve. In the process, I think, it will generate a lot of confusion and frustration on the part of both the public and the committee.

So in whatever way it could in the ad make clear that the terms of reference are really quite specifically confined to these three tasks . . .

MR. CHAIRMAN: I will specifically state in the ad that this committee is not responsible for drawing electoral boundaries, okay, but it is responsible, rather, for drawing up the terms of reference for a commission which will draw the boundaries. I will make that point clear.

MS. MCDONOUGH: That is not my point and, believe me, I do not mean it as a lack of confidence in your ability to do that at all.

MR. CHAIRMAN: No, no. It is a very good point.

MS. MCDONOUGH: I do think there may be some who would like to see the work of the committee delayed and I think we want to do everything we can to make sure that does not happen.

MR. CHAIRMAN: Paul?

MR. MACEWAN: Mr. Chairman, I just want to note one other question, I would like our legal researchers to advise the committee on, if I could, and that is the basis of electoral representation in the House of Commons of Canada. It is my understanding that the principles involved in the House of Commons are certainly not those of having a mean number of voters and then no deviation permitted above or below a certain percentile.

The Province of Prince Edward Island, for example, is guaranteed four seats. No province would receive any fewer seats in the House of Commons than it has in the Senate of Canada. The Northwest Territories are given two members. Even northern Saskatchewan, for that matter, was still given two members without reference to direct population statistics. I think a strong case could be made that in ridings like Victoria or Guysborough, Nova Scotia, there are similar considerations at work. I would like to get some legal briefing then on the formula for representation used in the House of Commons of Canada as it might impact on our deliberations.

MR. CHAIRMAN: Okay. Anything else? You are quiet, Mr. MacIsaac.

MR. MACISAAC: I find I learn a lot by listening.

MR. CHAIRMAN: Good. (Laughter) I expect we will be hearing from you. Anything else? Bill, is there anything in your judgment that we might usefully canvass at this session before we break up?

MR. WILLIAM MACDONALD: Mr. Chairman I just wanted to say that the committee is assured of this department's full cooperation on the legal side. I will make those arrangements for the Thursday meeting and the subsequent meetings if need be. On the planning side with Paul MacEwans references to me, I will be pleased to do whatever I can to assist.

MR. CHAIRMAN: Thank you very much. We are adjourned until 4:00 p.m. on Thursday.

[The committee adjourned at 3:25 p.m.]

HANSARD

NOVA SCOTIA HOUSE OF ASSEMBLY

COMMITTEE ON ELECTORAL BOUNDARIES

Thursday, May 30, 1991

RED ROOM

Printed and Published by Nova Scotia Hansard Reporting Services
(Editor - Rodney Caley)

ELECTORAL BOUNDARIES COMMITTEE

Mr. Arthur Donahoe (Chairman)

Mr. Jack MacIsaac

Hon. Guy LeBlanc

Hon. John Leefe

Mr. Ross Bragg

Mr. Paul MacEwan

Ms. Alexa McDonough

In Attendance:

Mrs. Joan Kelly
Legislative Committees Clerk

OBSERVERS

Department of the Attorney General

Mr. Reinhold Endres, Director (Civil), Legal Services Division

Ms. Louise Poirier, Solicitor, Legal Services Division

MR. ARTHUR DONAHOE (Chairman): I want to welcome everybody to this meeting of the Select Committee on the Establishment of a Provincial Electoral Boundaries Commission.

Et je veux dire un mot spécialement cordial à nos invitées de la FANE. Bienvenue!

There are a couple of housekeeping matters I wish to mention to the committee members before we get into the business of the day. First of all, following our meeting on Tuesday, I prepared an ad which has now been circulated to the newspapers across the province, both dailies and weeklies. I am advised that in the case of most of the weeklies, it will appear next week and in the dailies, it will appear also next Tuesday as well. So that for virtually all the papers, we will be covered by the end of next week, which is the earliest opportunity we could have availed ourselves of to get the ad in the newspaper.

The text of the ad is here, if anybody wants to take a look at it, then it can be circulated around to the members of the committee.

Now, I have also received two letters from one member of the committee, Mr. MacEwan, who has made a number of suggestions for people whom he thinks would be appropriate to appear before us. A letter has already gone out to those people. Mr. MacEwan suggests that we should hear from Mr. Dwight Dorey, who is the President of the Native Council of Nova Scotia; Mr. Alex Denny, who lives at Eskasoni; Mr. Alex Christmas, who is an executive officer, I am not sure exactly what position he occupies with the Union of Nova Scotia Indians.

Paul advises us that Mr. Bernie Boudreau, MLA, has a special interest in this matter. I have written Mr. Boudreau, asking if he would care to appear, to make submissions to the committee.

MR. PAUL MACEWAN: It was on the issue of native representations, Mr. Chairman. I might say that I would be quite prepared to withdraw that request, if you think it appropriate. The problem is that if one MLA appears before this committee making representations, then everyone can.

Now presumably Ross and I are here to represent Bernie Boudreau and every member of the Liberal Party. If they have any views to present, presumably we are here to present them for them. I just mention that to you, Mr. Chairman, because this came up in caucus and we thought that maybe on reconsideration, it might be more appropriate that MLAs not appear before the committee.

MR. CHAIRMAN: Well the invitation has already gone. If Mr. Boudreau feels so inclined, he can decline to appear and that would relieve us of any obligation to other members of the House.

MR. MACEWAN: It was on the issue of native representation and not in the general sense.

MR. CHAIRMAN: The other person to whom I have written is Mr. Harry Flemming who, as we all know I think, was the Secretary to the 1978 commission, which made representations and who, in fact, was the author of the history of redistribution in Nova Scotia, which appears in the report of the 1978 committee.

Et j'ai écrit aussi monsieur Michel Légère, Président de la Fédération Acadienne de la Nouvelle-Écosse, qui est présente aujourd 'hui. Il est le frère de notre collègue, l'honorable Leroy Légère. Et j'ai écrit aussi Madame Murielle Comeau qui est Président de la Fédération des Parents Acadiens de la Nouvelle-Écosse. Et j'ai invité les représentants de ces groupes de faire des représentations à notre comité si ils veulent.

So we have made some progress already. Some things are underway. Guy.

[4:15 p.m.]

HON. GUY LEBLANC: Could I impose upon you, Mr. Chairman, to add to your list also the Federation of Mainland Micmacs and then we will have covered all of the organizations.

MR. CHAIRMAN: Fine, I will arrange to send a letter to the Federation of Mainland Micmacs. Yes, Alexa?

MS. ALEXA MCDONOUGH: In addition to the ones you have already named and the addition just suggested, I would like to see the Nova Scotia Native Women's Assembly be added to the Micmac representatives. In addition, there are a number of organizations representing black Nova Scotians. I do not know whether it is helpful, Mr. Chairman, but I did bring a list of organizations. It is not definitive and is more exhaustive than the number that would logically be contacted, but I have circled the ones that seem to me to be most logical. I do not know if you want me to read them into the record.

MR. CHAIRMAN: Perhaps that would be a good idea, Alexa, yes.

MS. MCDONOUGH: It seems to me that the two most immediate and obvious groups would be the Nova Scotia Association of Black Provincial Organizations which is an umbrella organization representing the various black organizations in the province. I have the address here for that. Secondly, the Preston Political Coordinating Committee. As I think all members are aware, this is a coalition of nine community-based black organizations in the eastern Dartmouth end of that area including North Preston, East Preston, Lake Echo, Lake Major, Lake Loon and so on. That group has been meeting concerning itself with this question and have indicated an interest in appearing.

In addition, there are, I think, four or five other organizations that would make sense probably to include, the Cultural Awareness Youth Group which, I would think, might very well have an interest. The Black Cultural Society, the African United Baptist Association, and the Afro-Canadian Caucus, I have addresses for those groups if I could just pass that on.

MR. CHAIRMAN: Yes.

MS. MCDONOUGH: The Black United Front is the first group that is the coalition of provincial black organizations. They are hosted by the Black United Front. I did not mention that, but it is care of the Black United Front where the invitation would go.

MR. CHAIRMAN: Good. Does anybody want to comment on Alexa's suggestions? It seems to me that is a good cross-section of black cultural groups. I think if the committee is in agreement, I will certainly write a letter off to each of them right away.

MS. MCDONOUGH: Mr. Chairman, is it assumed that the name of Alex Denny among the native representatives is as the Grand Captain of the Micmac Grand Council?

MR. MACEWAN: That is exactly right.

MR. CHAIRMAN: The designation that Paul gave Mr. Denny when he wrote, Grand Captain of the Grand Council of the Micmac Nation.

There is another name that I would like to add and that is of Mr. Dan Christmas. Now Dan is, I think, with the Federation of Mainland Micmacs so . . .

MS. MCDONOUGH: The Union of Nova Scotia Micmacs.

MR. CHAIRMAN: Yes, I am sorry.

MS. MCDONOUGH: It would be Chief Dan Paul of the Mainland Confederacy.

MR. CHAIRMAN: That is right. Danny Paul. I am getting them confused.

MS. MCDONOUGH: Mr. Chairman, I would like to get clarification on one other point. You mentioned having sent the ad to some of the dailies and weeklies. Did you also include in that the Micmac News, the Provincial Monitor, Le Courrier?

MR. CHAIRMAN: There is one Micmac publication that we think it is likely not to get into, simply because it is a monthly and they have just put an issue out and their next issue will not be untii after the time appointed for the conclusion of our deliberations.

MS. MCDONOUGH: What about the black newspaper, the Provincial Monitor?

MR. CHAIRMAN: I will check, to make sure that that has been done.

As agreed last Tuesday, today we have with us Mr. Reinhold Endres and Ms. Louise Poirier, from the Department of Attorney General, our legal advisors. I would ask Mr. Endres and Ms. Poirier if they would be willing to take the chairs here with the microphones and we can proceed to be enlightened about some of the legal aspects of our mandate.

The members will have received work done and I notice that despite the fact that we have two lawyers, they seem to have concurred in their opinion. We are likely to get a coherent, undivided opinion from our legal advisors.

Now I am not sure how you want to proceed, Reinhold, but as I say, the documentation, the opinion that you and Louise have prepared has been circulated. It was

- - 4

just circulated earlier today, in fact, to the members. I have had a chance to read it, I hope other members have as well, but perhaps that could be your starting point and you can pick it up from there.

MR. REINHOLD ENDRES: Thank you, Mr. Chairman. The opinion did not get out very early, you have had it for an hour at the most. If you have not had a chance to read it, you might want to do so while I am talking, it would not hurt at all.

MR. CHAIRMAN: Reinhold, could you move the mike back and speak directly into it, please? Roger, can you give us a little more volume, please? That is better.

MR. ENDRES: Now, in order to give you an impression as to what the British Columbia and the Saskatchewan courts have already decided, we have put together this memorandum for you. Let me say, though, that the difficulty we face at the moment, of course, and you are aware of this, is that as the matter is pending before the Supreme Court of Canada in the Saskatchewan case, neither one of us for sure, and I am not sure if anyone else would want to predict what the outcome of that may be.

There is all sorts of speculation as to what happened, as to why the decision has not been rendered. I spoke with counsel yesterday, that is counsel for Saskatchewan. I do not think I need to repeat what he said to me but perhaps this much; he indicated there was wide expectation that the court would render its decision immediately upon the argument which, of course, was at the end of April.

The court did not do that and, in the light of that, some people at least think that the court is most likely going to refuse the appeal and is now simply doing the reasons, in support thereof. That makes some sense but I certainly do not think we ought to take much from that.

MR. CHAIRMAN: May I just jump in here and ask a question; if, in fact, the Supreme Court of Canada refuses the appeal, in essence what they will be doing then is confirming the decision of the Saskatchewan Court of Appeal, which holds that that 25 per cent tolerance is no longer legally valid.

MR. ENDRES: That is probably the way it will be. They may, however, in refusing leave to appeal, make some changes to the decision of the Saskatchewan Court of Appeal as well. One cannot safely predict.

As to timing, if you are thinking about that, nowadays the Supreme Court of Canada does not sit in judgment, that is, they can render decision any time during the year by simply filing them with the registrar. So it is conceivable that we will get a decision on the Saskatchewan case during the summer which, until recently, would not have happened but this could happen.

I do not think we can, therefore, relax and just ignore what has transpired. Let me get into the merits of what we wanted to submit to you. We have an abstract of numbers that was provided to us in the past that shows that in Nova Scotia at the moment we have divergence that is greater than what was, in fact, the situation in British Columbia, which was a bad enough situation. British Columbia had a variance, I think, of up to 57 per cent, give or take 1 per cent or 2 per cent. The Supreme Court of British Columbia which was Madame Justice McLachlin had serious problems with that and did not accept that such a variance could be justified at all, period.

Now in our province we have numbers that would show that divergence goes beyond 57 per cent so our problem, if anything, is perhaps more serious. The two cases essentially are consistent in saying that what you are looking for, what the courts will be looking for under the charter, under Section 3, the right to vote, is at least relative equality in voter power. So that we have constituencies that are made up of essentially the same number of voters if nothing else. Now I say voters. That might not be correct, because it may be just as good to say that the same number of people or residents in a county might govern. When you read our opinion, you will see that the British Columbia case was concerned about residents of constituencies while in Saskatchewan the focus was on voters.

I would think that it probably matters little because the range is probably the same one way or the other. If you focus on residents or voters, I think you will probably come up with the same result essentially. I do not think there will be a great imbalance between those numbers from one constituency to another. However, that issue has not been resolved. It was not the focus of either of the cases. There is no decision on the point that says you must focus on voters or you must focus on population per se.

So the two cases are consistent as I started to say in demanding that constituencies essentially provide for equal voting power. That is one person, one vote. That is not to say that that must be a mathematical precision. There can be variations and the courts will accept variations and they will do so in two situations. There are what one might call the inherent limitations that arise in arranging for equality because from one day to the next there are movements from constituency into another constituency. That is, we do not have a static population voter or general. So there are certain inherent difficulties in getting a fix on the exact numbers that are in place at any one time. Of course that number will vary from day to day or from month to month. The court recognizes that because of that there can never be mathematical precision in the voter power.

Then there are the non-inherent factors that the courts are quite prepared to recognize. They may come down to considerations like community of interest which permits governments to allow for differentiation in voting power in one constituency to the next. What we do not know, unfortunately, is how far government can go in allowing for differentiation. That is a very difficult one to answer. What is much more easy to answer of course is what we already know cannot be done and that is to allow for a differentiation of the magnitude of 50-some per cent in the British Columbia case. That clearly was unacceptable. Or, indeed, plus or minus 25 per cent which, in the Saskatchewan case, was found to be totally unacceptable.

[4:30 p.m.]

Now I do not know if it is of interest to you, there is a lot of speculation in the legal community that has focused on this issue. I discussed it with Bob Richards, who is leading the Saskatchewan argument on this, as to whether one can actually come to a percentage that might be acceptable to the courts. My own inclination is that any percentage you pick is automatically arbitrary and, as such, is suspect. I do not know if that is the way to go.

The best I can say to you, however, is that what we know is simply what we cannot do. We do not know, at this point, what we could possibly do. If you are really keen on a percentage deviation, then we probably should talk about that.

MR. MACEWAN: We probably are, Reinhold, so why don't you tell us about it.

MR. ENDRES: Well, let me tell you what the Saskatchewan people are thinking, having gone through the exercise of arguing before the Court of Appeal and before the Supreme Court of Canada, they are thinking that a 10 per cent deviation might be accepted by the court simply as a figure which is as good as any other. You see?

In the charter cases the Supreme Court has made it quite clear over the years that they will not second-guess legislation when it comes to numbers because the numbers that the government or the Legislature may choose may be as good as the court can choose. That is not the objective or the goal of the courts in reviewing legislation or, in this case, boundaries for charter compliance. It is not a numbers game.

If we can go into the court and say we fixed on 10 per cent because, and if we have a decent reason for it, then I think it will work.

Now, we know we cannot go too close to the 25 per cent deviation because that has already been tossed out. As to how much further we can go, my guess would be as good as yours.

MR. MACEWAN: So you cannot answer the question, how close is too close?

MR. ENDRES: That is right.

MR. CHAIRMAN: Could I put you on the spot for just a moment? When one reads the report of the 1978 Legislature Select Committee on Electoral Boundaries, it comes through loudly and clearly that that committee considered that the basic division should be the county, the 18 counties of the province.

That has historically, and that report traces it, I think it talks about only one occasion on which there has been a deviation in Nova Scotia from that principle and that deviation did not last very long.

This is an important factor to Nova Scotians for historical reasons. What I am wondering is whether that principle can continue to prevail, in the light of the decisions in the British Columbia and Saskatchewan courts. In other words, if this committee wanted to adopt that as a basic principle, would it have the luxury of being able to do so, as you read the B.C. and Saskatchewan decisions?

MR. ENDRES: Our interpretation of the B.C. and Saskatchewan cases would not permit the province to continue this alignment, according to the counties. That would simply not work.

HON. JOHN LEEFE: That would certainly be my interpretation, as a layman, reading through the two decisions this morning. Also, I think I am the only one here who represents a single county constituency so I, perhaps with greater impunity than others, may be able to say that it seems to me that in 1991 and looking forward to the 21st Century, that inhibiting a commission by imposing such a stricture on them, in fact, would be to impose an anachronism one which, in the short term, may not be as ill-serving as in the long term.

It seems to me that if, as I would hope would be the likelihood, we move towards legislation which will create a continuing mechanism for redistribution, that we would want to ensure that we did not slip that kind of inhibiting anachronism or continue to have that kind of inhibiting anachronism in place.

MR. MACEWAN: Mr. Chairman, I would like to throw this out for the response of our legal advisors because it bears on what you have just stated; we do have a formula in Nova Scotia right now and it is outlined on Page 3 of the 1978 report which I am sure you are familiar with. The formula we use now in Nova Scotia is that counties explicitly be made the basis of representation. That is point one. Secondly, counties with a population of up to 20,000 have one MLA. Thirdly, counties with a population between 20,000 and 40,000 have two MLAs, and so forth, up to counties with a population having between 40,000 and 60,000 have three MLAs and counties with a population between 120,000 and 140,000, of which there is only one, Cape Breton County, have seven MLAs. Then Halifax County which, at that time, had a population between 260,000 and 279,999 has 14 MLAs on the basis of that mathematical formula.

Now that is the basis of our representation in Nova Scotia based on counties. Now, Mr. Chairman, I have read the Saskatchewan and British Columbia decisions. They do not address the question of counties. An interesting consideration is why haven't they? The reason why is that they do not have counties in British Columbia or in Saskatchewan.

Large parts of the Province of British Columbia are uninhabited because of the terrain and what they have in British Columbia, and I have with me here my Encyclopedia of Canadian Municipal Governments if anybody wants to check this out, they have a patchwork of cities, towns, villages and rural municipalities that are called something else. I forget what they are called but we will look it up here. We have summer villages, villages that are only inhabited in the summer but not in the winter. They have district townships, et cetera. They have various different kinds of municipal jurisdictions in the province but not all parts of the province are covered by any particular form of municipal government necessarily, just those parts that are inhabited in the summer or year-round.

Likewise, in Saskatchewan. So the consideration of county that you have in Nova Scotia does not arise in those western jurisdictions. This, I think, is why they do not address it at all. They do not mention the word county in either decision at any point. I am really mentioning that to suggest that we may feel that our counties are an anachronism, but they exist. I am sure we have plenty of municipal councils and wardens in Nova Scotia who would be interested to hear those views that their jurisdictions are an anachronism, but they are there anyway. I would think that that term county would be covered by this community of interest factor that the people that are say, from Antigonish County, think of themselves as, by God, Antigonishers and not Pictonians, and once you cross that great divide into Pictou County, by God they are Pictou County people, they are not Cumberland or Colchester. Because that is the thinking of so many people in Nova Scotia, surely our situation here is different from that in Saskatchewan or British Columbia and that difference has to be respected in what we do here, I suggest.

MR. LEEFE: The honourable member confuses county boundaries with municipal boundaries. For example, the county boundary of Queens County includes within it two municipal units, the Municipality of the County of Queens and the Town of Liverpool. They are not one and the same.

MS. LOUISE POIRIER: I think what we cannot lose sight of are the principles that are coming out of these cases. I think what is important is not to lose sight of the guiding principles that are coming out of these cases because they are the things that we have to focus on, rather than labels or whatever. The guiding principle that is coming out of both of the courts is that we have to have constituencies of equal voting power. These factors like community of interest, whatever, they are factors that can be used to help carve out and map particular boundaries and, in some cases, to justify certain deviations from the average or the norm constituency size.

The guiding principle is, and I believe it is in the Dixon case, McLachlin has expressly stated, and it is also in the Saskatchewan Court of Appeal reference, it is preferable to set out that the first principle that must guide in establishing the boundaries is equal constituency size. So if you start with county lines, I do not really know what that means, in terms of equal constituency size. It really does not mean anything until you get down to working out the numbers.

I have not gone through this list here, to see whether this ends up at Page 3 of the 1978 report, whether you are ending up with about 20,000 per constituency or not. But again, the principle is not watering down the vote.

MR. CHAIRMAN: John.

MR. LEEFE: I should preface my remarks this time by saying that what I am about to say is not necessarily what I would like to be able to say but it is, nonetheless, what I feel it is incumbent upon me to say, in view of the fact that 1991 is not 1978 and that the Charter of Rights causes us, whether we like it or not, to have very different parameters available to us than were available to the predecessor committee of this one.

I think, again, whether we like it or not, there is a very basic fact which confronts us, that is that geography and community of interests and other qualitative parameters must be secondary to the weight of the vote. The quantitative, not the qualitative, must be the essential but not necessarily the sole determinant.

I am the one around the table who probably, as a member for a single county constituency, is more likely to be affected than any of the others. Yet I feel very strongly that in view of the Charter of Rights, which imposes certain responsibility on us which would not have been imposed on us had we been carrying out this exercise at an earlier time, to set aside our own biases and understand what the courts, or the direction that the courts are giving to us and to respond accordingly.

MR. CHAIRMAN: Paul.

MR. MACEWAN: I am surprised to hear John say that because the voter population of Queens County is 9,673; it is -19.3 from the provincial average and it is well within a 25 per cent up or down tolerance range. I would not expect Queens to be affected at all by this process.

MR. LEEFE: That is assuming a 25 per cent plus or minus. From what I read in the cases, the courts of Saskatchewan, in fact, . . .

MR. CHAIRMAN: The court threw out the 25 per cent tolerance.

MR. MACEWAN: They said it could not go any higher or lower than, it did not say a riding like Queens would be affected by this.

MR. CHAIRMAN: Guy.

MR. GUY LEBLANC: Yes, with regard to the community of interest and the parameters established, has that been argued from a point of view of language, on that basis?

MR. ENDRES: Neither the British Columbia nor the Saskatchewan cases enter into the specific considerations of what one can accomplish under the heading of community of interest. Only peripherally was it in focus in the Saskatchewan case, with the northern constituencies. But in that scenario I was advised that no one really took any great interest in the two northern constituencies of Saskatchewan, it just was not an issue. No one made a big fuss about it, the court just accepted it as an extraordinary factual situation which warranted unique consideration. We do not have any parallel, really, to a language community or a racial community per se, none that those two cases would offer us.

I like the attractiveness of what has been done in the past because we know what we have been doing; we know it has worked fairly well. But I tend to agree and I have no choice but to agree that as of 1985, when Section 15 came in, which is secondary here, but as of 1982, when we had Section 3 of the charter come into play, we have to reconsider what has been done in the past so successfully. We have to analyze and see whether we can still do that. Unless a county division could be set up in such a way or could accommodate the right to equal votes, it cannot be done any more. That is just one of the things that has to go with the charter.

[4:45 p.m.]

MR. MACEWAN: Mr. Chairman, on an interpretation of the charter based on speculation that certain things may or may not be sustained by the Supreme Court of Canada. We have to, in a very short time, come up with terms of reference for redistribution commission. I would suggest that obviously the very first term of reference we should identify for that commission would be that whatever the Supreme Court of Canada decides, they are to be guided by that. We have no choice in that. But subject to that, there may well be other considerations that we may want to address. I am not sure how we can provide for representation for the Micmac community, for the black community, and for the Acadian community, presumably to the advantages of those communities, not to their detriment and at the same time, do what you are saying we have to do.

The two fly in contradictory directions. If you look at the number of ridings that we have in Nova Scotia now, that you may call Acadian ridings, they are all at the low end of the scale. They are all significantly beneath the norm and would presumably have to be merged into other areas to achieve these goals that you are speaking of, that you say transcend all other considerations. I think that the Acadian community of Nova Scotia would be very upset to have this gospel applied to their situation.

I think it also flies against the terms of reference of our committee which were to consult with the Acadian, black and Micmac communities and see that their interests were protected.

MR. CHAIRMAN: You talk about the three Acadian ridings, Paul. What a commission might have to do is change those boundaries and add additional population to one or more of those constituencies so that they would perhaps become less Acadian in the total context of their population. But, at the same time, maintain a very high percentage of Acadian people within them. That may be in effect what the charter is going to do to this whole process.

Again, it is not for us to decide that. It is up to the commission to decide that. I think it is perfectly possible for us to ask the commission to take such things as the community of interest of the Acadian population, the black population and the Micmac population into account in their determination of what appropriate boundaries should be. There are ways, I think, that they can probably accommodate that. Yet, perhaps, not go all the way except possibly in the case of the Micmac seat to making it a seat that will be totally elected, or represent a member that will be totally elected by the members of the racial community whose specific identity we have asked the commission to give some cognizance to.

MS. MCDONOUGH: Mr. Chairman, a couple of points. It seems to me that it is critically important that we do as a select committee hear from the representatives and we have set that in motion from the particular communities of interest that have been identified. There may be others, but those particular ones that we have already made a definite commitment in our own terms of reference to hear from. So I think that can become important in what we subsequently want to recommend for the terms of reference for the Electoral Boundaries Commission. When it comes to the legalities of this, it sounds as though we are into very uncharted territory here and there is nothing we can do about that.

But what I would like to pursue a little bit, obviously not being a lawyer and not in any way being conversant in the details even of the court decisions that have been rendered. Obviously the legal counsel have spoken to the first principle that is reinforced in these court decisions, which is equality of the weighting of the vote.

I guess my question is, I mean that would appear to be obviously a critically important democratic principle, when you are talking about how to divide up the democratic constituencies, but I am wondering, from the point of view of the constitutional framework and the charter context in which we are addressing this, whether there can be legal arguments mounted within that that have to do with the equality provisions and have to do with the recognition of the two official languages and the founding nations which, when the constitution finally says what it needs to say has to include the aboriginal population, and we are going to get that right this time around, I hope. Is it possible that there can be legal arguments mounted that taking the kind of measures that I think we are all contemplating when we talk about this, to take into account the community of interest of the Acadian community, the black community and the native community, that would have to do with advancing the equality provisions.

In other words, what we know to be absolutely true is that in one instance, in regard to language, in the other in regard to race, that there have been historical injustices and inequalities which do not render those communities with the degree of power that they clearly deserve and need in order to redress the imbalances and the inequalities.

Although there seems to be very little that has really been addressed along those lines in the earlier decisions, from a legal point of view, is this not the area in which we should be trying to use that constitutional and charter framework to mount the arguments here. It seems to me it is quite clear that what democratic power the democratic rights have to do with, does not have anything to do with counties, it has to do with people who have certain kinds of needs and interests that they deserve to have represented, and I think what we are all saying is, for different reasons, in the instance of each of these three population groups, that there are special needs that ought to be addressed. Can we mount such an argument within the framework of the constitution and the charter that could be made to stick legally? I think that is the advice that we need from legal counsel, to the extent that we have anything to go on in the way of precedents, I guess what we have at least is the constitution and the charter itself.

MR. ENDRES: Yes, the premise of course, as you said, is that we start with one person, one vote, for the ordinary situation across the province. Aside from that, there may be special situations that present themselves, such as the representation of minority groups.

You may be familiar with the fact that neither the Saskatchewan nor the British Columbia case addressed these issues, so we are in other uncharted waters again.

There is, under Section 15(2), provision for legislation or other governmental activity that is called affirmative action. If it can be said that providing a seat for a minority group is a form of affirmative action, then it would actually have the sanction of the charter rather than being challengeable, as such.

That we have not explored; we will do that, if you so wish.

MR. CHAIRMAN: That would be very helpful to the committee, I think, Reinhold, yes.

MR. ENDRES: We have taken a look at the specific situation of the native community, which creates a much greater problem than that of other minority groups in that when we look to initiate anything that is specifically accommodative of natives, we are into jurisdictional disputes between the federal and the provincial Crown because under the Indian Act, it is the federal Crown exclusively that legislates in relation to Indian matters.

If we were to propose to have a constituency for natives only, that is a problem that we have to sort out, or someone has to sort out and address somewhere down the road. That is a unique problem that only focuses on the native community with other minority groups such as the Acadians and the black people of the province. Indeed, I think we should explore the prospect of Section 15(2) as allowing for specific accommodation. I think that could be argued together with the other essential criteria that goes into determination of constituency boundaries and that is community of interest.

So the two things, I think, can be worked together and we will do that. We will see what we can bring back. I do not want to get your hopes up because I do not think there is a lot of law about in that area.

Again as to the uncharted waters, let me mention this much now. The Americans have dealt with this issue for some years. There was reference to a considerable American case in the British Columbia decision. I do not think that we want to take too many pains looking at the American side because they have apparently extracted even greater demands for equality of voting power than even Madame Justice McLachlin was prepared to.

MR. CHAIRMAN: Certainly at the Congressional level.

MR. ENDRES: At the Congressional level, they seemed to extract almost a mathematical equality, not so much at the state level. This is where the 10 per cent comes from, I think. In the American experience at the state level, the 10 per cent deviation has apparently been accepted and maybe that is where people came up with that number.

MR. GUY LEBLANC: I would be very much interested in getting some legal opinion. As the previous member said, I am not very well versed in the law but on the community of interest and specifically in the language which is enshrined in the charter. Also, as it pertains to the Acadian community and equality of votes it has to be taken into consideration and probably has not been used as an argument. But that particular interest is one which would be different than many other minorities at this point I believe. I would like to have that further explored as an argument because by increasing the boundary in order to increase the number, you are actually decreasing the power of my vote as a francophone in having access to those equal rights. So it has to be argued on a different basis and maybe others have looked into that question.

MR. MACEWAN: Mr. Chairman, I do not want to interrupt Reinhold or Louise if they are in the course of making a submission. Are you in the course of making a submission that we have interrupted with questions?

MR. ENDRES: Not at all. No. I think you have that letter of ours. You have on Page 2 the four or five key points that we can draw from the two decisions and they are there for you to read. It is not necessary for us to belabour this very much.

MR. MACEWAN: Well, I have read your letter and it is well put together. I would like to give you some response and then invite your comments. We in Nova Scotia are one of 13 jurisdictions in Canada that have Legislatures or Parliaments, those being the 10 provinces, the House of Commons and the two territories. Now only one of them right now is under the gun and that is Saskatchewan. That is the specific province where this is an immediate issue and problem and we are going to be taking a look at how they are dealing with that in the context of Saskatchewan.

I know a good deal about Canadian politics. I know for example that in the House of Commons in Canada there is an up and down deviation factor tolerated of, I believe 25 per cent, but then there are exceptions to that. There are, for example, the Northwest Territories that are given two seats. That would be similar to the northern Saskatchewan two seats. The Yukon is given one seat regardless of population, again for similar reasons.

Now on the other side, the Province of Prince Edward Island receives four seats because of a rule that states that no province shall have fewer seats in the House of Commons than they are given in the Senate. So Prince Edward Island gets four seats in the House of Commons with relatively small populations per constituency. There are other factors at work, too, in the House of Commons. There are northern and remote constituencies that are identified to which I do not think quite the same standards are applied as are applied in downtown Toronto.

[5:00 p.m.]

Surely, the House of Commons would be the body in Canada that should provide the leadership on this matter. If there is any model that we should look to of how to do it, it should be the federal House. Now, I know that in the Province of Prince Edward Island, I am quite familiar with that because that is where my people come from and they were politically active, there are three counties, each of which have five electoral districts, except the County of Queens which has six. Each of these electoral districts elect two MLAs, one called Assemblyman and one called Councillor.

Now, the City of Charlottetown is divided into two constituencies, 55th Queens and 6th Queens, one for the east end of town and the other for the west end of town. The City of Charlottetown elects a total of four MLAs and, yet, roughly one-fifth of the population of Prince Edward Island lives in the City of Charlottetown. There are 32 seats in the P.E.I. House. So if four people out of 32 represent one-quarter of the population, there is something obviously very mathematically wrong.

MR. CHAIRMAN: I may be in trouble too. (Laughter)

MR. MACEWAN: Well, I am also familiar with the political geography of British Columbia which the McLachlin decision addressed. Their deviation from a norm is far greater than ours. In fact, in British Columbia, for years, it was deliberately the policy of successive Social Credit Governments to keep the greater Vancouver area under represented because that was a part of the province that tended to go NDP, so they kept it down. They built up the rural areas, especially the inland part of the province, because that was the area more likely to go Social Credit. This is well known.

Now, I do not know what they are doing in British Columbia right now to address this question. Maybe since the British Columbia decision is not as recent as Saskatchewan, our counsel might tell us what the aftermath to that has been. As far as I know, if an election is held in B.C. this fall, as is widely predicted, I think the term of the government there runs out this fall anyway. As far as I know from my reading of the newspapers, the British Columbia Parties are nominating their candidates now in anticipation of that election, based on the current electoral boundaries. How is this possible? Could you give us the follow-up of what has happened in B.C.?

MR. ENDRES: Well, certainly, I will check on that. I can say with respect to Saskatchewan we are in a little better position to tell you. In that province, you may know that Saskatchewan has enacted a new Boundaries Commission Act which was done in anticipation of either not getting a Supreme Court of Canada ruling in time for its fall election, or getting an adverse ruling. That Act is available and we have a couple of copies, if you would like to see it.

MR. CHAIRMAN: A press release issued by the commission that has been set up in Saskatchewan has been circulated to the members, and it contains the relevant provisions of the Saskatchewan Statutes.

MR. ENDRES: Well, we have a copy of the Statutes, if you like. I do not know what the aftermath in British Columbia was but we will check on that and will return on that. Let me answer the question that you posed on the House of Commons, because that presents, in a way, a difficult question, but also one that I think has an answer. The House of Commons, as you correctly say, guarantees four seats to P.E.I.. It guarantees 11 for Nova Scotia and so on and so forth, as you have stated. I think that the answer there is that the House of Commons is okay as it is with that divergence of representation. In other words, there is no equality of voter power in the House of Commons. I think they are right, in that respect, because that is constitutionally provided for. That is, Section 37 of the Constitution Act of 1867 says that P.E.I. gets four seats, Nova Scotia gets 11 and the Charter cannot touch that. The Charter does not touch other constitutional provisions.

Now, the Nova Scotia Constitution, if I may just expand on that, we have tried to argue that in the case of TV, and not successfully so far at any rate. (Interruption) Maybe you need a better lawyer. We all need better lawyers. The scenario with Nova Scotia was somewhat different. There could be an argument that the boundaries of the province are part of the constitution of the province, I have no difficulty with that, but the Nova Scotia Constitution has been said not to be part of the Constitution of Canada and therefore is subject to the Charter of Rights, so we have that problem.

MR. MACEWAN: I am very glad you answered that question, Reinhold, because it troubled me. We should look then at other Canadian provinces for guidance in this matter and not necessarily to the House of Commons, that is what you are stating.

MR. CHAIRMAN: I think I might break in here to post-charter developments in other Canadian provinces. I think we have to bear in mind what Reinhold said earlier, that the charter has changed the situation dramatically in the provinces. Sorry, I did not mean to disturb you.

MR. MACEWAN: I have also heard of swimming in unchartered waters here too and anticipating decisions of the Supreme Court and what not. I would just like to say that before I am persuaded that we should be, pardon me, Reinhold, I do not mean to use this word in a disrespectful way but I am going to use the word, buffaloed, I do not want to see us buffaloed on this. I would like to see us acting in harmony with what is taking place in other provinces. I do not see any reason for Nova Scotia to have to be the leading edge on this business.

I do not know that in Prince Edward Island right now Joseph Ghiz and his government are jumping around in a state of panic wanting to redraw the electoral map. I am not aware of it. I have not heard anything out of Quebec indicating that they want to reassemble the Congress of Versailles and redraw the map of Europe. I have not heard anything out of Ontario indicating that Bob Rae is right now putting all of the government business aside to deal with the redrawing of the electoral map. If the things that you say are so, sir, the difference I would like to suggest then is that surely other provinces and the actions they are taking would demonstrate that this is indeed a concern the governments have to address on an urgent basis.

I would just like for my own information to know, particularly in B.C. because we have been bringing out a B.C. decision made some time ago. We know that they are going into an election this fall. They have to. The five years have run out there.

MR. ENDRES: We will follow up if that is your wish and check and see what initiatives are being undertaken across the country in the provinces. But a partial answer to your question is this, that a number of jurisdictions that you mentioned, such as British Columbia and New Brunswick, decided to participate in the hearing before the Supreme Court of Canada. So they put their arguments before the Supreme Court.

We had that same option and we decided really there is not much to be gained by hitching onto that ride because we apparently have a problem that seems very difficult to overcome, even with the best of leeway. Other provinces are interested in this, they have taken some initiative in it and argued positions which we can check on if you like.

MR. CHAIRMAN: In particular, I can advise the committee that there is a commission underway, the Representation and Electoral District Boundaries Commission in the Province of New Brunswick. I have been in contact with Mr. Justice William Creaghan, who is one of the co-chairmen of that commission, and I have obtained a copy of the terms of reference that reached me just today. I have not had a chance to have it duplicated in time to circulate to the members of the committee, but I will do that in the very near future.

My attention was drawn to Paragraph 6 of the terms of reference which states in part as follows:

> " . . . the Commission is to be governed in the preparation of its final report and recommendations by determining the area to be included in, and fixing the boundaries of a proposed electoral district to ensure any proposal recognizes that the single most important factor to be considered in determining the said boundaries is equality of voting power in the electoral districts throughout the Province, taking into consideration
>
> (a) the communities or diversity of interest of the population of the proposed electoral district;
>
> (b) the accessibility to and the means of communication within and between the various parts of the proposed electoral district; and
>
> (c) existing boundaries of municipalities or wards thereof.".

Those are the principles that have been established for an electoral district boundaries commission in the Province of New Brunswick which is currently meeting. They have had one meeting, I am told, and will have their second meeting today. I think they are having their second meeting today.

MR. MACEWAN: I certainly do not want monopolize the discussion here, Mr. Chairman. I very much appreciate what you just said there because I think this is more of the kind of guidance that we need. We have partners in this, we are not alone, we

046

are not the only province in Canada. There are nine other provinces and all of these 10 provinces collectively are affected by this situation.

The more that we could plug in to what is happening in the other provinces, the more I think we would see what the sound course of action to take might be. I notice in what Art just read that the consideration I have referred to, which has previously been the foundation of representation in Nova Scotia, that is, county boundaries, is now (c) and not (a). But it is still in there.

MR. CHAIRMAN: It is still there and I think it is still open to us to suggest to a commission that that be a factor they look at. But I do not think that we are in the position of being able, as was the committee in 1978, to say that this is to be the guiding principle. Alexa.

MS. MCDONOUGH: Mr. Chairman, the 1978 Select Committee on Electoral Boundaries Report in Appendix E contains county population breakdowns from 41 to 76. I wonder if we might request to have the information circulated to committee members of the further population trends from 1976 forward to 1991. In other words, when we discuss this issue of counties in its current application, we can have a clear picture of what are we talking about in terms of actual population increases, declines and overall distribution?

MR. CHAIRMAN: I am sure those statistics should be readily available through any one of a number of sources, could they not, Reinhold?

MR. ENDRES: Sure, they must be, yes. I do not know how current they are but they would be more recent than the ones that were (Interruption) Yes, we can try to get those.

MR. CHAIRMAN: Sorry, John. First, Paul.

MR. MACEWAN: I just wanted to address the issue of population. Mr. Chairman, there is a census underway right now and the results of that census will not be available for some time. It is the first census in five years, so because of that, I suggest that the census statistics are really not available to us in an up-to-date basis but what is available are the enumeration statistics from the most recent provincial election of 1988. They are not entirely up-to-date, as Reinhold just stated, nothing is constant, but they are as up-to-date as we could possibly obtain. I think the enumerated voters' lists of 1988 would be the most up-to-date and comprehensive statistical information we could possibly have to plug into as to how many people we have in Nova Scotia that vote.

MR. CHAIRMAN: There may be some merit in having these figures, but would these not really be more relevant to a commission than to our work? We may want to know in a general way what the population of the various constituencies across the province is currently, but I do not really know that numbers are that relevant for our deliberations. I can be persuaded otherwise if somebody wants to try.

MR. LEEFE: That is exactly the thought that was in the back of my mind when I declined in favour of Paul speaking a moment ago. We have great interests in these matters for a host of reasons. We have to constantly, I believe, remind ourselves that we are not the commission, but rather are a select committee of the House whose sole function is to define broad terms of reference for a commission and to propose the names of commissioners, so that they then can get underway. We have to be very careful not to fall into the trap of unconsciously undertaking initiatives which are appropriately left to the commission to undertake.

I think the greatest need for us to avoid doing that lies in the fact that I believe we have a responsibility as legislators, in as timely a fashion as possible, to make it possible for the Legislature, after a commission has reported, to make adjustments in electoral boundaries in the province to reflect the realities of demographic change and, so importantly, the realities of the constrictions that the Charter of Rights is imposing upon us.

So I think we have got to be very careful not to become a debating society; secondly, that we be very careful not to usurp, however unconsciously, the work of the commission; and thirdly, that we ensure we do not, through extending our deliberations beyond a reasonable time, interfere with the rights of the citizens in terms of determining what the bounds of their constituencies will be so that they have weight by vote, so that we can get on with doing the kinds of things that are demanded of us, ensuring that redistribution takes place and that the particular communities mentioned in the terms of reference, have their interests encompassed within the commission's report and recommendations.

[5:15 p.m.]

MS. MCDONOUGH: Mr. Chairman, I do not disagree with anything that John Leefe has said. I think it is nonetheless relevant for us to have some idea of what we are talking about in terms of numbers because, and just to make an argument in the extreme to make my point, if we were to be persuaded of the wisdom of retaining a reference to counties in the proposed terms of reference to be considered by the Electoral Boundaries Commission, but a review of the county population figures, the most current figures that are available, indicated that in fact, seven counties have populations that no matter how you divide up the numbers in the province, they are going to vary some 30 per cent from the average, then it would be questionable whether that made sense to propose that the county boundaries should remain as part of the terms of reference.

MR. CHAIRMAN: I am one of those who feels that we should probably put a reference to county boundaries in, but not for numerical reasons, for historic reasons. I think there is merit and unfortunately perhaps it cannot be a very high priority for the commission, but, I still think it is a factor that they should take into account and I think there are historical reasons why this is so, Alexa, not so much numbers would justify that. The commission may come to the conclusion that the numbers and the legalities of the situation that they face are such that while they considered it, they could not give it any weight, I mean that is a distinct possibility in my mind.

I think, that there are good historic reasons why we should still include a reference to the county boundaries as a subject that the commission should give some thought to.

MS. POIRIER: I wonder, Mr. Chairman, on that point if I could just point out that in the present federal legislation and in some of the provincial legislation, one of the guiding principles is historical pattern of an electoral district. So it is recognized as a factor.

MR. CHAIRMAN: Which in Nova Scotia means the county boundary.

MS. POIRIER: Yes.

MR. MACEWAN: I agree very strongly with you, Mr. Chairman, and with Ms. Poirier on this because if you trace the whole history of the British system of constituency representation, it is based on the idea that a township or a borough or a municipality was entitled to its representative in Parliament. That is the whole basis of the foundation. So if you chuck these boroughs or townships or municipalities out the window and say they do not exist, it is almost as if you were to say, going back to my earlier parallel, the conference at Versailles, redrawing the map of Europe, to divide Europe up into nations that bore no reference to the ethnic or historic or linguistic groupings of the peoples, but simply divided it arbitrarily into so many equally populated countries. It would not make any sense.

In the same sense, I think that ridings, to take an example, Queens, a most historic constituency. You know you can go back to the Loyalists arriving in Shelburne, you can go on and on right through the whole thing. Histories of Queens County have been written extolling the virtues of that community. Are we to now wipe it off the map because of some cold mathematical exercise that has been conjured up somewhere with a computer or a calculator?

MR. CHAIRMAN: You are getting eloquent again, Paul.

MR. LEEFE: I must say I am a little surprised and only perhaps a little disappointed to find that Paul seems to have more in common with Count Metternich than with the reformers and I remind myself and I would like to remind the committee that the Great Reform Bill of 1832, in fact, took into consideration that the concept of municipal boundaries for boroughs was no longer sufficient to meet the democratic needs of the nation. As a result, rotten boroughs were done away with and the United Kingdom developed constituencies much more solidly on the basis of representation by population. Paul can stick with Count Metternich and I will stick with the people who put forward the Great Reform Bill of 1832.

MR. CHAIRMAN: All right. Is there anything else then before we thank our legal advisors and ask them to continue with the assignments that we have given them? Jack, you have not been saying much.

MR. JACK MACISAAC: It is quite all right. I do have one observation though on this, on Page 3 of the legal opinion there, on the B.C. case. I think I recall last week somebody saying that this Justice McLachlin will be one of the ones sitting to rule on the appeal. Is that correct, Reinhold?

MR. ENDRES: Yes, she is now a judge of the Supreme Court.

MR. MACISAAC: I am intrigued by the Item No. 2 of the inherent legal principles, which is the one that, in fact, addresses everything, I think, that is being said here. Her justification of the deviation is on the basis that this deviation would serve to provide better overall government, or contribute to better overall government of the province. It seems to me that it all revolves around that. The 25 per cent or 10 per cent probably will not mean a thing if that is an overriding principle in the decision, will it not?

MR. ENDRES: I tend to agree, getting away from the numbers game. The justification has to be good and it will work, no matter what the numbers are. The problem is, the more you diverge, the harder it will be to find a good justification for the divergence. That is the dilemma I see.

MR. MACISAAC: It is a justification, I suppose.

MR. ENDRES: Well, some of the things you can think of readily are, of course, the cultural community of interest connections. They are worth preserving, they are part of our culture and they continue, no matter what we do with constituencies.

MR. MACISAAC: You see, the type of country Canada is, and it is obvious that it is at play in the federal representation, the very geography, and the very geography of Nova Scotia, the kind of ribbon type settlement that has taken place, I think, would bear on this. It is not always, as I said, a cozy cutting up of city blocks that equal so many. That is an easy process. It becomes the other and how you can represent those. That has to be a factor, the capability and the ability of the person elected to represent the interest of those constituents. It seems to me, and I did not know, for example, except that Pictou Centre seems to be a larger constituency. I never looked at the numbers as whether or not those numbers were very relevant. It never affected me.

I would dare to say that Pictou Centre is probably a much easier constituency to represent than either Pictou East or Pictou West, to pick the two that are right there, simply because there are 4 mayors and 24 councillors sitting around, carrying out a fair amount of political activity, if you will, within a 5 mile or 4 mile area, where you cannot tell whether you are in Trenton or Westville, except that the people there know where they are.

MR. CHAIRMAN: It is a good thing.

MR. MACISAAC: But anybody from outside, really, walking through the constituency without seeing the sign saying, "You are now entering New Glasgow", would not have the foggiest idea, really. But it is a very compact constituency you represent, a hell of a lot different than Guysborough, for example, or Inverness North, which goes all the way around Cape North, right clean around.

MR. CHAIRMAN: Cumberland Centre, too.

MR. MACISAAC: Anyway, I am, perhaps, expanding merely on the obvious, but I think, it would seem to me, as in No. 2, what Justice McLachlin's opinion is, I would think.

MR. ENDRES: . . . is a factor and that can be a legitimate factor, yes. I have no trouble with that.

MR. MACISAAC: But I think Cumberland Centre should definitely go. I would think that would be . . .

MR. CHAIRMAN: I think that is the unanimous view of the committee, Cumberland Centre has to go, yes. The member should be appointed to the Senate, yes. (Laughter)

MS. MCDONOUGH: Just a final question of a general nature. The legal counsel that have been meeting with us this afternoon have heard the many different factors that have been raised that members feel ought to be given some consideration. It seems to me on a superficial reading anyway of the B.C. decision and the Saskatchewan decision and, of course, beyond that we do not know what is going to come down from the appeal. But it seems as though there is latitude for the factors to be considered that we have raised in discussion.

I guess the real question is, how does one decide how much latitude, if that basic principle of representation by population is to be the overriding one. I guess I would come back to, again, not so much making the argument as raising the question for further consideration by legal counsel of whether our strongest suit in terms of putting forward our arguments is likely to be found in using the constitution and the charter itself as the basis for mounting those arguments because it is really in the context of the charter that we are finding ourselves having to deal with this, rather than putting undue waiting on historical factors.

I do not say that to suggest that they ought not to be considered by any means because I think that the historical factors are addressed in the B.C. and Saskatchewan decisions on the basis of the considerations that enter into a geographically dispersed area. The issues of how can transportation and communication be ensured that will strengthen the representation and so on. The argument seems to still come back to the best possible democratic representation as opposed to just the notion, well, historically it used to be thus and so. Is that not the case in terms of how to mount the argument to give weight to the various points that we have been raising as factors that should be taken into consideration?

MR. CHAIRMAN: Okay, was there a question in that? Are you looking for a response?

MS. MCDONOUGH: I guess I am wondering whether legal counsel are going away with any sort of clear sense of the areas in which we would want some further guidance, some further research and direction?

MR. ENDRES: If you like, I can quickly tell you what I took down as to things that I think we ought to look at. In the alternative I could just simply try to quickly respond to your concern in saying that it seems to me what you are pointing to is two separate approaches. One would be to set a prefix differentiation factor, 10 per cent as a given, and that is that, which we would have some serious difficulty with one way or the other, depending on the numbers and perhaps in principle.

I rather like the ideas that you developed as I see it as an alternative to say that, let us find as many legitimate factors and criteria for differentiating between one constituency and another and legitimize the difference because then we have an argument which the charter accommodates. Of course, the principle is one person, one vote, but there are all kinds of factors that enter into that decision as to whether that has to be maintained. We have no difficulty in going by Section 1 of the charter to justify limiting a charter right by saying, here is a unique situation, like the northern constituency in Saskatchewan and here is why we say that that should be upheld. If we have factors and criteria to do it, it is much better than simply going in there and saying, well, 10 per cent seems like a nice number. It does not have any foundation.

[5:30 p.m.]

MR. CHAIRMAN: The cases seem to say that if you are going to have differences, they cannot be arbitrary differences. There has to be a rationale for them and if the rationale is reasonable then the courts I think would tend not to interfere and upset the redistribution scheme.

MR. MACEWAN: I just want to make one final observation. I know you people are going to continue to be available to us, you are counsel to the committee, this is not just a one shot appearance here today. Most of what I have been saying here today has been an attempt to address Subclause 2 of Part A of our Terms of Reference that is, if we are requested to establish terms of reference for the commission, then we are going to have to say something on that. The options range all the way from, do it whatever way you like through to, well do it whatever way you like but with these umpteen qualifications. We have to do something on that and that is why I am trying to get some input from you as to what is possible to recommend.

I want to say that there is another aspect to this whole question and that is the administrative aspect. I trust that the goal of this exercise is not to create chaos and we already have in place in Nova Scotia a working electoral system with returning officers in 52 constituencies, trained, knowing how to do their jobs, each of those constituencies divided into polling divisions with the boundaries of each defined. There is a great deal of infrastructure in place now to run elections in Nova Scotia, which if we were not to be prudent and judicious in how we proceed and then how the commission proceeds, could presumably be lost and this loss, I think, would be a great loss to Nova Scotia. It would be as if perhaps our system of land registration were thrown out the window and we had to start from square one all over again. I do not think people would like to see that happen. It would not help things.

One consideration that I would like to see addressed, somewhere along the road, is the idea that if it is not broke, do not fix it and as much of the existing infrastructure and constituency boundaries and so forth as is possible, should be left intact and changes only be made where changes are necessary. Because it will be difficult enough to find new returning officers, train them, divide these new constituencies into new polling divisions and go through all the recreations of that infrastructure, but if this is contained only to those areas where change is really necessary and the rest left intact, it will be much easier, from an administrative point of view, than just to have a complete A to Z realignment. I just throw that out for what it is worth.

My final observation, Mr. Chairman, is that I hope that our legal counsel can come up with some mechanisms of how we can establish a native seat in the Nova Scotia Legislature and do so in a way that would be proper. I think in this we are breaking new ground. I do not think that there is any such system in existence in Canada today and I would like to see some proposals because we do have to establish terms of reference for the commission. I think we have some responsibility to tell the commission in some general terms of how we think that they should go about doing that.

MR. MACISAAC: Am I right in seeing or am I dreaming that I saw some spokesperson for the Indian community that was not quite so sure whether a seat was the way to go. Did I see something like that?

MS. MCDONOUGH: I think again we are going to hear from different representatives from the Micmac community. I think there has been a very lively and constructive debate that has been ongoing for some time around a very specific proposal that was put forward. It is my understanding from having been involved in a number of discussions with Micmac groups that there is no opposition being expressed to this idea at all. There are certain reservations being expressed about whether there is the danger that if there were agreement about the inclusion of a treaty deputy seat in the Legislature that what could happen is that further concerns and representations being made by the Micmac community, or various Micmac groups, around ongoing concerns may be met with less receptivity on the basis, well now you have your seat, that will take care of things and of course it will not do any such thing. So, it is my understanding that the reservations that have been expressed have been around that sort of concern.

My own sense is that there is a fairly high degree of consensus about an interest in the designation of a treaty deputy seat. The one thing that we have not begun to address, and I do not think we should be trying to address this until we hear from the native representatives, there certainly has been a very strong point made that from the perspective, at least, of those voices I have heard in support of the proposal, that it not be understood, or really misunderstood, as being a seat based on racial considerations. Rather, that it be a seat based on the fact of the Micmac people having been the first residents, the first inhabitants of Nova Scotia, that there are treaty rights that are not often well understood and even less often fully enforced. This would give some appropriate recognition to those factors that would enhance their opportunities for fair and equal treatment, which is quite a different concept from the concept that there ought to be a seat based on either numbers or racial considerations. I think we should be hearing from those groups, rather than trying to sort of second-guess. Certainly, they would not appreciate any of us making the interpretation that I think they can much better bring to the committee.

MR. CHAIRMAN: Guy.

MR. GUY LEBLANC: I think, for the benefit of the committee, it would be well worthwhile if we could have a legal opinion as to who in that community can make the decision on behalf of the native people. If we do not address it, I can tell you from past experience that we are going to have to address it because the groups will address it. For the information of the members of this committee, there are some great discussions that have been going on and are going on, as to who makes those decisions, whether it is under the Indian Act, whether it is the 13 chiefs that have that power.

C53

The Native Council has another idea on the matter and I think it is important that we have a legal opinion on that matter in drawing up the terms of reference for the commission. Also, I believe that the commission will need this information later on.

MR. MACEWAN: I think that we should hear from the native spokespersons before we make any attempt to grapple with this problem at all. I do not know just what the government had in mind when it drafted this resolution and instructed us to make the provisions that it did.

MR. LEEFE: The resolution was adopted as a result of negotiations between the three Leaders. It is not the government's resolution, it is a resolution of the House which was drafted as the result of discussions and agreement between the three Leaders. Alexa, I think that is correct to say, is it not?

MR. MACEWAN: The resolution is moved by the honourable member for Pictou East, the Premier of Nova Scotia, and follows a great number of public statements made by the Premier on this matter, which I can table, if necessary. I trust I do not have to because it is a matter of record.

MR. CHAIRMAN: Everybody knows that the Premier has been outspoken on this issue, that is true, but what John Leefe says is also true. I think Alexa can speak to this. She was party to those discussions. There was discussion between the three Party Leaders which culminated in the resolution, which established our committee.

MR. MACEWAN: All my observation is, is that I think the Premier had something fairly specific in mind. I would like to know what it was, because in the end, someone somewhere is going to have to draft the proposed amendment to the House of Assembly Act that is going to incorporate that idea into a specific form that would be incorporated into our electoral process in Nova Scotia.

MR. CHAIRMAN: It will be for the commission to make its recommendations as to how this will be done. It is not for us to determine that.

MR. MACEWAN: Oh, yes, I know. We can pass the buck if we want, but we have to establish terms of reference for that commission.

MR. CHAIRMAN: That is right, yes.

MS. MCDONOUGH: Mr. Chairman, I think it is only fair to say, I do not want to speak on behalf of the other Leaders, but there was a good faith open process of discussion that took place that resulted in a consensus. There was no minority view, there was no laying on by anyone of this resolution, other than arriving at it through a consensus. I do not suppose it much matters from this point forward what any of the three Leaders had in mind, other than that this was an issue that needed to be addressed and that there was the need for an appropriate structure to do it in terms of reference that would be arrived at through this consultative process.

MR. CHAIRMAN: That is right. We have to deal with the resolution, Paul, as it was passed by the House and not with any agenda that any one of the Leaders might have had in mind.

MR. MACEWAN: I am pleased to hear you say that, Mr. Chairman.

MR. LEEFE: The next meeting is?

MR. CHAIRMAN: Well, I was going to suggest that we try to get together at 2:00 p.m., if the House opens at 12:00 p.m. I will circulate the New Brunswick material. I have given it to Mrs. Kelly and asked her to duplicate it and circulate it. Reinhold and Louise, will that give you enough time to do some further research on the points that have been raised?

[The committee adjourned at 5:41 p.m.]

HANSARD

NOVA SCOTIA HOUSE OF ASSEMBLY

COMMITTEE
ON
ELECTORAL
BOUNDARIES

Tue., June 4, 1991

RED ROOM

Printed and Published by Nova Scotia Hansard Reporting Services
(Editor - Rodney Caley)

ELECTORAL BOUNDARIES COMMITTEE

Mr. Arthur Donahoe (Chairman)

Mr. Jack MacIsaac

Hon. Guy LeBlanc

Hon. John Leefe

Mr. Ross Bragg

Mr. Paul MacEwan

Ms. Alexa McDonough

In Attendance:

Mrs. Joan Kelly
Legislative Committees Clerk

OBSERVERS

Department of the Attorney General

Mr. Reinhold Endres, Director (Civil), Legal Services Division
Ms. Louise Poirier, Solicitor, Legal Services Division

MR. ARTHUR DONAHOE (Chairman): The meeting will now come to order. This does not have to be a lengthy one because its main purpose is just to do some planning for future meetings. We have received from our counsel, Mr. Endres and Ms. Poirier, a memo regarding the questions that were raised at our last meeting.

I have just one question, Reinhold and Louise, concerning this. In the second paragraph under the question, Whether Legislation Is Required to Establish the Boundaries Commission or to Establish New Electoral Boundaries, you say, "The last electoral boundaries commission in Nova Scotia was established, upon a resolution of the House, by a Minute of the Executive Council.". So it would require a resolution of the House in order to establish the commission even though the subsequent appointments could be made by the Executive Council. Is that what you are saying to us? So there has to be some action in the House. (Interruptions)

Is that required, is the question because we may get into a hassle regarding the presentation of our report to the House and the termination of this session. What we need to know is whether it is absolutely essential that the House take some action on our report prior to the establishing of a commission? Maybe we did not make that question clear enough to you at the last meeting.

MR. REINHOLD ENDRES: Can we return to that? We will check it and come back with the answer next time.

MR. CHAIRMAN: Fine. Now that is the only question I have arising out of what I think is the very comprehensive response to the questions that we asked our counsel to address at our last meeting. Does anybody else have any matters? Ross.

MR. ROSS BRAGG: I just want to make a point, and I do not want to appear to be a trouble-maker here, but after the meeting last week where the only people on the agenda were our legal counsel, you spoke to the media. To quote you, Mr. Chairman, regarding the Grits move to hold up this committee, "He is absolutely right, said Donahoe, who promised to ensure the Tory dominated committee would move as quickly as possible.".

MR. CHAIRMAN: The last part of that is correct. I said to the reporter, it is my intention to move the committee's work along as quickly as possible. The second part is not accurate. I was quoted out of context, if I can fall back on that line, and I was very upset with the report of a brief conversation that I had with the journalist who wrote that article.

MR. BRAGG: I guess my concern is that we had an agenda here last week to deal with legal counsel. Mr. MacEwan who is a senior member of the Legislature, who probably has more knowledge than most of us, had some questions and some discussion. We did not hold up the agenda, these were the only people who were here. Then we received a headline that we were the ones who were holding up, Grit stalling riding changes. I think it was inappropriate.

MR. CHAIRMAN: I take no blame whatsoever for what journalists do around here, Ross, and you know that very well. All I am saying is that the quote that is attributed to me was taken out of context and put in a context which makes it appear as though I was being critical. I, in fact, was not but I did say it was my intention as Chairman of this committee, to move the work of the committee along as quickly as possible.

MR. BRAGG: I concur with that. My second point I would like to make before we get into the rest of the meeting is that I feel it is inappropriate for the Leader of the NDP to have made the same comment to the media after the meeting last week because, in fact, there was not a case of stalling. I think it is counter-productive to the good of this committee for the NDP Leader to run out and talk to the media and try to stir up trouble. I think it is inappropriate for us to do that. Certainly, if for some reason we stalled witnesses coming forward or did something like that, fair ball, let us take the blame. But that was not the case last week and I feel it is inappropriate for the NDP Leader to use that platform.

MS. ALEXA MCDONOUGH: Mr. Chairman, this discussion would be ruled out of order in the House, as you well know. It seems to me that reporters make certain observations and invite comments by members on all sides of the House and if your skin is that thin, then I guess you will be showing people that you are not able to stand the heat. I think we ought to get on with the agenda and if I could I would like to pick up on your reference to the legal counsel's memo of June 4th which was extremely helpful and I think very comprehensive. I am really quite impressed that it was possible to pull this much information together as quickly as you have done which I think is in the spirit of the job that we have undertaken here.

I have one specific question. It is just extremely thorough, but I wondered in reference to Alberta's Electoral Boundaries Commission that has been established in spite of the fact that they are awaiting the legal constitutional opinion, whether you have the actual terms of reference for that electoral boundaries commission that Alberta has established and, if not, whether it might be useful for us to have a copy of that because it would appear that they are facing the same dilemma that we are, having set in motion an electoral boundaries commission without having the benefit of the Supreme Court decision on the Saskatchewan case?

MS. LOUISE POIRIER: We do not have that but we can get it. The only difference really between Alberta and us is that they do have legislation setting a plus or minus 25 per cent deviation which we do not. It is the 25 per cent that is directly before the court and was tacitly approved in the B.C. courts so they are not in quite as bad a situation as we are, but on your point we can attempt to get those, yes.

MS. MCDONOUGH: They are also in the position of not knowing what impact that 25 per cent is going to have so they may have come up with terms of reference that do not deal directly with that but deal with some of the other issues that we are trying to grapple with here so it just seemed to me it might be useful to have a look at it. We may find it is not, but no harm looking at it.

MR. CHAIRMAN: John, do you have a question?

HON. JOHN LEEFE: My recollection is that Alberta has a legislative process for a timely review of demographic changes and so on which is an advantage they have over us. I think that is correct, is it not?

MR. CHAIRMAN: Could be, I am not sure. I do not know.

MR. LEEFE: I think they have to have a commission sit every two elections or a minimum of eight years.

MR. CHAIRMAN: Some jurisdictions do have that. I do not know whether Alberta is one of them or not.

MR. LEEFE: It makes good common sense to me.

MR. CHAIRMAN: Now, I wish to advise the committee that the advertisement has begun to appear in the newspapers across the province. It has appeared in the Halifax Chronicle-Herald and in the Daily News. I suppose most of you have seen it and it will begin to appear in the weekly newspapers towards the end of this week. We have made arrangements to cover all the newspapers that we are aware of. Apparently there was one Micmac newspaper it will be in, but there is another Micmac newspaper, the timing of it is such that we are not going to be able to get it in, unfortunately. But aside from that, I think we have excellent coverage on the newspapers for the advertisement.

In response to suggestions from various members of the committee, letters have gone from me on behalf of the committee to the following: Mr. Dwight Dorey, President of the Native Council of Nova Scotia; Mr. Alex Denny of Eskasoni, Cape Breton; Mr. Alex Christmas of the Union of Nova Scotia Indians; Mr. Bernie Boudreau, MLA; Mr. Harry Flemming; M. Michel Légère of la Fédération Acadienne de la Nouvelle-Écosse; Mme. Murielle Comeau, la Fédération des Parents Acadiens de la Nouvelle-Écosse; Mrs. Yvonne Atwell, President of the African Canadian Caucus of Nova Scotia; Rev. Oqueri Ohanaka, Executive Director of the Black United Front of Nova Scotia; Mr. Dan Paul, Executive Director of the Confederacy of Mainland Micmacs; Ms. Carolyn Thomas, Moderator of the African United Baptist Association; the Nova Scotia Association of Black Provincial Organizations, c/o the Black United Front; the Nova Scotia Native Women's Association, Truro, Nova Scotia; Mr. Wayne Adams, Executive Director of the Black Cultural Centre of Nova Scotia; the Preston Political Coordinating Committee, c/o Rev. Darryl Gray, Dartmouth, N.S.; Rev. Darryl Gray, President of the Cultural Awareness Youth Group; and Ms. Joan Jones of the Legal Action Education Fund.

Those are the organizations and individuals to whom a letter advising them of the work of this committee has gone. So far, we have heard back from Mr. Paul Comeau on behalf of M. Légère, President of FANE. I have also heard indirectly from Mr. Harry Flemming of his desire to appear before the committee. I just had a brief conversation with Bernie Boudreau who now indicates, Paul, that he would like to come and make a brief presentation to the committee. (Interruption) Yes, no problem with that.

Mr. Dwight Dorey will be making a presentation to the committee and Rev. Darryl Gray will be making a presentation to the committee and Mr. Dan Paul. Those are the persons from the list of those to whom a letter went. In addition, the advertisement has prompted a Mr. Gerald Wills of 740 Herring Cove Road in Halifax to come forward and indicate that he would like to make a submission to our committee.

So those are the people from whom we have heard already. I have taken the opportunity of speaking informally to Rev. Darryl Gray, who is here in the audience today, and to Mr. Dan Paul. Both these gentlemen have indicated to me that they

059

would be available to appear before the committee on Thursday afternoon of this week. Mr. Boudreau, also, would be available to speak to us on Thursday afternoon. So we have at least three people who would be willing to come and make their submissions to us on Thursday afternoon of this week.

My question to the committee is, is that a good time for our next meeting. At that time, we will begin hearing submissions from those who want to make presentations to us. In the meanwhile, I will (Interruption) Let's hold on and discuss that in a second.

I am sorry, I mentioned Dwight Dorey. I have not spoken to him about the possibility of coming on Thursday, but he has indicated that he does want to make a presentation to us, and Harry Flemming. No time has been set for him. So we have three people, at least, who are prepared to meet with us Thursday afternoon and maybe as many as five or six. So should we meet right after Question Period on Thursday afternoon? John.

MR. LEEFE: I would anticipate that we will be going into estimates right after Question Period. That would be about the time that the Department of Fisheries' estimates are called. With the agreement of all Parties, possibly we could arrange to have the Fisheries Estimates moved behind the Department of Health and Fitness, I think, is the next department, which would allow Guy to be able to be in attendance at the meeting on Thursday.

MR. MACEWAN: Mr. Chairman, if I could respond to that point, I had understood that the order in which the estimates are called is the prerogative of the government. The Opposition calls the first four in order, but, beyond that, the government can bury them at its wish. (Interruption)

Also, while we are on that point, Mr. Chairman, there is the possibility that any one of us from time to time may not be able to attend for some good reason. Perhaps we could have an agreement that substitution of other members would be permissible if a minister or anyone else is unavoidably absent.

MR. CHAIRMAN: The rules permit that. As much as possible, I am hoping that the members of this committee will be able to be in attendance and I will, within reason, try to schedule around that. We have an important job, but a time limited job and I would like to keep all of us involved if that can possibly be arranged.

HON. GUY LEBLANC: As the Acadian on the committee, I would like to be here when the presentations are made. Also, as the Minister responsible for Aboriginal Affairs, I would be interested in hearing the presentations.

MR. CHAIRMAN: So are we agreed then? We have Bernie Boudreau, Dan Paul and Rev. Gray, at least, on Thursday afternoon. I will also contact Mr. Dorey again and Harry Flemming and maybe we can get one or both of them. Oh yes, I will also contact Mr. Wills and see about his availability. His name is Gerald Wills. He is a private individual unknown to me, 740 Herring Cove Road is his address and he called in response to the advertisement that appeared in the newspaper. (Interruption) He is a working man. There are two telephone numbers here for him. One of them is his telephone number at work.

[2:45 p.m.]

MR. BRAGG: Mr. Chairman, did you talk to him yourself?

MR. CHAIRMAN: No, I did not. He called Mrs. Kelly. The number that is used in the advertisement is the Committees Office and Mrs. Kelly spoke with him, this morning was it, Joan?

MRS. JOAN KELLY: Yes, this morning.

MR. BRAGG: We talked about this last meeting, but I am wondering if Mr. Wills might get here and find out that what he really wants to do is appear before the commission.

MRS. KELLY: I explained that to him and he understands.

MR. CHAIRMAN: Okay, are we agreed then that our next meeting will be on Thursday afternoon immediately following Question Period?

MRS. KELLY: What time is that?

MR. CHAIRMAN: Well, it will be around 2:00 p.m. I think if we tell our people and the people who are coming, we should try to be as specific as we can, or do we just want to say 2:30 p.m.?

MR. JACK MACISAAC: How many are coming?

MR. CHAIRMAN: Well, we have three for sure and maybe as many as five or six.

MR. MACISAAC: Are they going to have a limit or time allotment?

MR. CHAIRMAN: Well, that is a good point.

MR. MACISAAC: We will be here all day.

MR. CHAIRMAN: I think we should try to impose a time limit on them, not in a desire to cut them off, at all, but in the interests of moving things along. If the committee is agreeable, maybe say a 15 minute or a 20 minute submission followed by the same length of time for questions? Or 15 and 15?

MR. MACEWAN: Well, that seems somewhat lengthy to me, Mr. Chairman. In view of the concerns that have been expressed about moving along, I know that even in the House itself, on many motions, we can only speak for 15 minutes such as on important Private Members' Public Bills. I think 15 minutes should be fine. If you cannot say it in 15 minutes, they could table a . . .

MR. CHAIRMAN: Right. If anybody wants to make a written presentation, yes, and leave us some documentation, fine.

MR. MACEWAN: Also unlimited questioning but not an unlimited filibuster, please.

MR. CHAIRMAN: Right. So we are 15 and 15.

All right. Is there anything else that anybody would like to bring up? In that case, we are adjourned until 2:30 p.m. on Thursday afternoon.

[The meeting adjourned at 2:48 p.m.]

HANSARD

NOVA SCOTIA HOUSE OF ASSEMBLY

COMMITTEE ON ELECTORAL BOUNDARIES

Thur., June 6, 1991

RED ROOM

Printed and Published by Nova Scotia Hansard Reporting Services
(Editor - Rodney Caley)

ELECTORAL BOUNDARIES COMMITTEE

Mr. Arthur Donahoe (Chairman)

Mr. Jack MacIsaac

Hon. Guy LeBlanc

Hon. John Leefe

Mr. Ross Bragg

Mr. Paul MacEwan

Ms. Alexa McDonough

[Mr. Guy Brown replaced Mr. Ross Bragg]

In Attendance:

Mrs. Joan Kelly
Legislative Committees Clerk

WITNESSES

Mr. Harry Flemming, Private Citizen
Mr. Gerald Wills, Private Citizen
Mr. Dan Paul, Executive Director, Confederacy of Mainland Micmacs
Rev. Darryl Gray, President, Cultural Awareness Youth Group

OBSERVERS

Department of the Attorney General

Ms. Louise Poirier, Solicitor, Legal Services Division

MR. ARTHUR DONAHOE (Chairman): Ladies and gentlemen, I think we should begin our meeting this afternoon. Two members of the committee, I am told, are on their way and will be here in just a moment. We do have a number of people who have been invited or have requested the opportunity to appear before us this afternoon. Just before we begin, I want to make mention of a matter that I am sure all members of the committee are now aware of. That is, that the Supreme Court of Canada in a six to three judgment has today ruled that the Saskatchewan electoral map, which was the subject of a legal challenge, is valid. It has overturned the decision of the Saskatchewan Court of Appeal.

Now, my understanding of this, and I have asked our legal counsel to obtain a copy of the decision, I am told it is some 70 pages long. It is being faxed down to the Attorney General's department from Ottawa and should be available to me. After I get it, I will arrange to have copies prepared and made available to all members of the committee. We will have a copy of that decision this afternoon before we conclude the hearings. Meanwhile, I want to thank one of our committee members, Mr. MacEwan, who in his usual diligent way, has obtained a copy of the press release that has issued from the Supreme Court of Canada and does contain extracts from the decision.

As I read that press release, it appears to me that the impact of the decision will be more on the commission, rather than on the work of this committee. I think, as I read the press report of the decision, it will certainly give the commission more flexibility in drawing electoral boundaries, than would have been the case, had the opinion of the Appeal Division of the Saskatchewan Supreme Court been upheld.

With that as background, I think it leads perfectly into the appearance before us of our first witness this afternoon, a gentleman, I think, well known to all members of the committee and to all people in Nova Scotia who are interested in political matters. A man who has been well known on the political scene in our province for many years. A man who also has the distinction of being my one-time trivia partner in several losing ventures. On behalf of the committee, I am pleased to welcome Mr. Harry Flemming, who, as everybody knows, was secretary to a similar committee of our Legislature back in 1977 and 1978, is very familiar with the issues facing this committee. Harry, we are pleased to welcome you this afternoon and ask if you would be kind enough to present your views to the committee.

MR. HARRY FLEMMING: Thank you very much, Mr. Chairman. I have not prepared a formal brief. Indeed, in view of the arguments that I would have made prior to yesterday, it is just as well, perhaps, because I would have had to tear a lot of it up. What I was trying to do, much of it, was argue against the basis of the Saskatchewan Appeal Court's reasoning. So we will take that as a given.

I would just like to briefly review the 1978 Select Committee on Electoral Boundaries Report that said the county unit in Nova Scotia should explicitly be made on the basis of representation; and that counties with a population of more than 20,000, and I emphasize population, not voters, should have two MLAs. Counties with populations of 40,000 to 60,000 should have three MLAs, and so on. The only counties with more than 60,000 people, certainly are Cape Breton and Halifax, but the formula would apply.

In applying that formula in 1978, the effect was to add four seats to Halifax County, one to Cape Breton County and one to Colchester County. The committee recognized at that time that under this formula, Cumberland County would be over-represented by one seat, but that no change be made at that time.

Now, what has changed since 1978? Basically, Halifax County has grown in population from roughly 278,000 to something over 300,000 today, perhaps as much as 320,000. We will know that when the results of the June 4th census come out. What this would do, if the 1978 formula were applied to date, two counties would add either two or three seats to Halifax County and it would take one away from Cumberland. Now, depending on what would be done regarding the possibility of a seat for Micmacs, this would yield a House going from 52 to, at most, adding either two or three that would be added to Halifax County. It would not change the county basis of any other constituency in the province. So we would be looking at a House adding, say, three to Halifax. That is a net, counting in Cumberland, of two, three. So we would have a House of 55 people at the most. That is including the possibility of a Micmac seat. So it would mean very little change to the county basis of representation.

Now, depending upon the allowable tolerance that you allowed, it would require considerable reshuffling of boundaries, particularly in Halifax County and perhaps in Cape Breton County, with very little, if any change, except in Cumberland County.

[2:45 p.m.]

So my suggestion would be to stick with the 1978 formula. You have the power, it is not enshrined in legislation but I think that it has served the province well over the years. Of course since 1978, the Charter of Rights and Freedoms has come in and based on the charter, we have the Supreme Court of Saskatchewan decision which today is now thrown out. In 1978 the tolerance within a county that was accepted by the committee was 33.66 per cent which meant, in effect, that any one seat within a county could vary as much by 100 per cent, that is one seat could have twice the population of another one. That may be considered by the committee to be too large a tolerance and it probably is, especially in Halifax in the quick growing seats because even if you do something that approaches justice one day, within five years, because of population growth, it is out of whack again.

Now I would just like to read a couple of excerpts from the 1978 report because this is what the committee has to look at today. The question was asked in the report, should representation in the House continue to be on the basis of county boundaries? We did a survey at that time, we used the words notable, status, political Parties, wardens and so on and so forth and we also advertised in the daily press and the weekly press of the province. To use the words notables and general public, both agreed that the counties should continue to be the basis of representation, the notables by 80 per cent. In other words, the people that, I guess, we could infer are more au courant on political matters and the latter, the general public, by over 60 per cent. The majority of the public at that time favoured guaranteeing each county one seat regardless of the size of its population.

Just one other excerpt: "The committee therefore suggests that the Electoral Boundaries Commission stay within existing county - and, where possible, municipal - boundaries in delimiting constituencies. Tradition, convenience and community of interest would be best served thereby.". Now I do not want to set up a straw man because I think in many ways I am pushing on an open door with the argument that the county unit should continue as the basis of provincial representation. But just to play with the figures a little bit, if we went to anything resembling one man, one vote, rep. by pop., we would find out that we would have just a radical change in the electoral map of this province.

For example, Annapolis County would lose a seat and have to be tacked on to something else, probably onto Kings County. Antigonish County would probably stay just about the same since it has just about the average number of population. If we divide 52 into say 900,000 which is roughly the population of the province right now, we get an average constituency of 17,300. Now the closest single county in the province that comes to that is in Antigonish County with just over 18,000. If we went for anything like an average, I will just indicate a little bit more of the changes that would be necessary.

For example, the District of Clare would not have a seat. The District of Clare and Digby County would have to go together with perhaps a little portion of Digby County knocked off and put on to Annapolis County. This kind of ripple effect would go right throughout the province. Now the biggest problem in Halifax County are in seats like Halifax Eastern Shore, Cole Harbour, Sackville, maybe Halifax Bedford Basin, certainly Halifax Atlantic, the suburban seats. The problem in Halifax is under-representation of the suburban areas and an over-representation of peninsular Halifax.

If you look at even the figures just since 1976, you will see that even then the four peninsular seats are under-represented, in terms of anything approaching an average. I will just go on and I am not going to be long on this. Queens County would be considerably under-represented and would have to be tacked on to either end. The same with Richmond County. Shelburne County not too bad; Shelburne County could stay as an integral unit.

Victoria County is, by far, the smallest in the province, in terms of population. This was 1986, the most recent census figures. Victoria County, at 8,700 people, is considerably smaller than the next seat. Now Yarmouth County might be able to retain two seats but, depending on the tolerance you took, part of Yarmouth County might have to be tacked on to another.

Basically my point is, unless you allow pretty generous levels of tolerance, you are going to find a bigger change to the electoral boundary map than probably you or the Legislature or the people of this province really want, and all to eliminate, in a sense, the under-representation of Halifax and the over-representation of Cumberland County.

I want to deal just very briefly with the committee's terms of reference. It says that the House, with the guidance of the select committee, gives support in principle for a House composed of 52 members, plus one additional member who would be representative of the Micmac people in Nova Scotia.

Now as I read the language, the guidance of the select committee and support in principle; I do not think this committee is bound to bring in 52 seats, plus a Micmac seat. I think that is merely a suggestion and I think this committee should interpret those words, and particularly should interpret those words in light of another subsection, which says, the needs for boundaries that address community of interest in the composition of the House, including the Acadian and black communities.

If you do not stick to the county unit and if you allow too great a measure of tolerance, you are going to end up eliminating Clare, just to take one example. So I would suggest to you that Clare has been an integral unit for far longer than I have known, and I have looked at this for a long time.

I suggest to you that you do not stick to that guidance of 52 plus one member. I suggest that the House can well accommodate two or three more members. You are not going to crowd yourselves any more than you are now but what you would be able to do is apply that 1978 formula and still allow for communities of interest which, by the Supreme Court decision today, appears that you are well within your rights to do.

I came here with the idea that, in fact I wrote this early this morning. Now it is quite possible that if you stick to the county unit, that the courts might strike it down any formula that is not based on a narrow, arithmetical, artificial definition of equality. We now know that is not an issue because the Supreme Court has said so.

Again, I hope I am pushing on an open door. I do not think, certainly not the Saskatchewan Supreme Court, should be the sole arbitrator of how this House of Assembly redistributes itself. But I do say, keep the county unit, keep the 1978 formula and allow for the redrawing of boundaries, particularly in Halifax County and perhaps in Cape Breton County. Thank you very much.

MR. CHAIRMAN: Thank you, Harry. Would you be willing to respond to a few questions from the committee?

MR. FLEMMING: Certainly.

MR. CHAIRMAN: First of all, I take it you are arguing that we should, as was done in the past, recommend that the county be the basis of representation and then make some suggestions with respect to numbers.

While it appears as though the Supreme Court of Canada is going to allow more flexibility in drawing boundary lines, the press report of the decision says that just as "Justice Beverley McLachlin, writing the majority opinion, acknowledged that 'relative parity of voting power' should be a prime consideration in the electoral system. But she maintained the goal of the charter is not to guarantee a strict rule of one-person one-vote. Deviations in riding size may be justified by practical considerations such as geography, community history or the need to provide representation for minority groups.".

In light of that, do you think that it is possible for us to make the county boundary the primary consideration in our direction to the commission? All the other boundary commissions that we have looked at have had as their primary basis, equality of voting power, as their primary principle and then subject to these other considerations to be taken into account by the commission. Do you think there might be some danger to a commission, to the validity of its work if its primary directive was the one that you were suggesting to us, even though we may agree that it is certainly an important and, for historic reasons, a very valuable consideration for the commission to take into account?

MR. FLEMMING: I would agree with you, Mr. Chairman, that there is a danger that this Saskatchewan decision, as much as we know about it at the moment, would not sustain my argument, that is the argument accepted by the committee, unanimously in 1978, that the county unit be used. We have not, we have had municipal boundary changes in this province, well, we all know how many, but not a single county unit in this province has been changed since 1851 and that is when Victoria County was broken off from Cape Breton County.

I would also suggest that the representation of this House of Assembly since 1758, has been the county unit and if that is not enough history and tradition, then I do not know what is. I would like to argue this if I were a constitutional lawyer, before the Supreme Court of Canada, to support this because it does permit community of interest to come into a very wide area. It is too bad, in a way, that Victoria County only has 8,400 people. I would like to see Victoria County and Richmond County and so on, somewhere up closer to the provincial average, so that you could make your argument a little easier, but it is very hard to make an argument in the case of Victoria County. I think the principle is one the committee should not lightly and certainly not willingly give up.

MR. PAUL MACEWAN: I would just like to ask one question here, although I appreciate Mr. Flemming coming here today, Mr. Chairman, he is, in my view, probably one of the most knowledgeable people in Nova Scotia, if not the most knowledgeable on these matters. I would like to address the specific instance of Victoria County. It is the smallest, of course, of the counties, but it is certainly not the smallest in area. It is a most difficult area to get around as anyone who has ever driven over Cape Smokey will know. There are three passenger and automobile ferries still in service in that county, which you have to use to get from one part to another, there is no alternative road route except at Englishtown.

I would suggest, that in view of the focus that all these recent court decisions have made on community of interest, that there is a very identifiable community of interest in the Gaelic speaking Highland Scots of Victoria County. I would like to ask Mr. Flemming, in view of those considerations and with the specific reference to Victoria County because that is the smallest of the counties in terms of population, if there could not be a case made for maintaining Victoria County, as one sees in this House, on the concept of the community of interest and the protection from minority rights and historical and cultural considerations that the court decisions have identified as relevant factors in drawing boundaries?

MR. FLEMMING: I would certainly agree, but I would suggest that you not get into the business of making anomalies because then that gets harder to defend in court. Once you change one thing, it is the whole business of rejigging boundaries outside county lines because then you have Victoria County with Inverness County North or Inverness County South or whatever you have. I would hang in there and say, look, the county unit is our basis of representation and has been.

I see nothing wrong with this in principle, even the United States Supreme Court, which, I believe, suggested 10 per cent either way tolerance, nobody has ever turned over the fact that little states, that is little in terms of population, like Alaska and Wyoming and South Dakota and Vermont should not have one member of the House of Representatives, along with their two senators. Same principle to me. If this province, in its wisdom, just as the U.S. court has set, then stick to your guns and save the county. Prince Edward Island has four members of Parliament. It is not entitled to it, it is entitled to one, maybe 1.5 members of Parliament by population, but it has four MPs. So that principle of strict equality, it has not been followed all that often.

[3:00 p.m.]

MR. CHAIRMAN: Yes. The distinction there that the courts make, though, is that that is a constitutional guarantee, which is untouched by the charter.

MR. FLEMMING: No, I agree. Yes. You know, the U.S. Supreme Court, in its infinite wisdom, might say, look, one man, one vote is the way it is, and your constitution must change. Parts of the constitution have been overturned. I am not arguing on an American analogy. I am just saying that it would be nothing unique for this province to say that the county is our unit of representation.

MR. CHAIRMAN: Thank you, Harry. Any questions? Alexa.

MS. ALEXA MCDONOUGH: I have a question of interest, and I do not know that you would have done the numbers on it, but if we were to follow your advice to retain the county as the basic unit, have you worked out what kind of variance there would be if we went with your proposal for two to three seats in the metro area, eliminate one in Cumberland County?

MR. FLEMMING: Well, we would go by Victoria County. Certainly, the variance, as counties get bigger, is much less. For example, the variance in Cape Breton County, with 121,000 population, would be very little on the average than Halifax. There is no question that the average Halifax seat would be larger than any other county. To me, not significantly larger, not to the point where it would be repugnant to someone's sense of democracy. But you will have another problem. This will be the electoral boundaries commission who will have a problem. It depends on how quick you want to redistribute the House because the best thing you will have is the census figures and I do not know when they are going to come out.

Also, too, it was pointed out in 1978, we do not even know the population of some of our constituencies, ones that form part of a county and do not form part of either a municipal unit or a census division. Somewhere along, the line was arbitrarily drawn. Now, local politicians know it is this road. You do not know precisely how many people, but you can figure that out with pretty narrow bounds.

MR. CHAIRMAN: Any other questions for Mr. Flemming? Thank you very much, Harry.

MR. FLEMMING: Thank you.

MR. CHAIRMAN: We are grateful to you for coming and presenting your views to us today. Now, we have three other people to appear before us today. One of them, Mr. Gerald Wills who is appearing in response to the advertisement that was in the paper and is appearing as a private citizen, has asked if we could hear him for his presentation, as he has a commitment in a very short while this afternoon. Mr. Wills, would you come forward, please. If you would be good enough just to take a spot before one of the microphones there, we would be pleased. We want to welcome you and thank you for coming forward. We look forward to hearing your views on the matter that is in the mandate of the committee.

MR. GERALD WILLS: Mr. Chairman and select committee members, I wish to state that in your job to complete a boundaries commission on electoral redistribution and consult as many interested people as possibly can, including the Acadian, black and Micmac communities, personally, I feel that the select committee has failed to adequately advertise to the general public, the purpose of this boundaries commission, as outlined in Resolution No. 1681(e)(i), (ii) and (iii). I feel that if it had been done properly, there would be more private citizens coming forward. The advertisement that was put in the newspaper was this size and it did not reflect what this boundaries commission is about.

I would also like to mention that the terms of reference for the commission are to be set by the select committee, as stated in the resolution and things.

Now the final decision to give the three groups mentioned in the resolution special representation, Acadian, black and Micmac communities their own special representation should only be granted by a vote by the people of Nova Scotia. I would also like to remind the select committee that they are to set guidelines and terms that are fair to all of the people of the province which include other cultures and races and the only fair way to do that is by a vote. Right now I do not see anything in this resolution for other ethnic groups like the Lebanese, the Greeks. It only seems to be specifying three cultures and that is the reason that I chose to come today.

I would like to ask the commission a question if I may, Mr. Chairman. Do the people who are seated here on the committee today feel that the boundaries, in effect, discriminate against any one race or culture at the present time? If they feel that they do, could you raise your hand, please.

MR. CHAIRMAN: Well let me respond to that. I do not know that that is a fair question to ask individual members of the committee to respond to. But just let me say this, Mr. Wills, that the Canadian Charter of Rights and Freedoms has changed the legal situation with respect to the constituency boundaries of the Province of Nova Scotia. This committee began its work in the context of a decision of two Supreme Courts in other provinces which held that long-time boundary lines in those provinces did not satisfy the requirements of the Canadian Charter of Rights and Freedoms which has moved us closer to the principle of one person, one vote.

The last time our boundaries were redrawn here in Nova Scotia was in 1978. There have been substantial population changes since that time. I do not think there is a feeling that anybody in Nova Scotia is disenfranchised under the existing boundaries but, nevertheless, there is a feeling broadly held by all the political Parties in the Legislature that boundary lines from time to time have to be redrawn. There is also a perception which I believe is broadly held that the communities of interest represented and the racial communities mentioned in the resolution itself feel that they have not participated fully in the electoral process under the existing boundaries. For that reason, the Legislature asked this committee to address the special concerns of those groups.

This is not to say that anybody at all cannot come forward and present his or her views to this committee so that we can have the benefit of those views in directing the commission as to how it should proceed with its task. Now you mentioned that the only fair way is a vote of the people. Let me turn the tables around a little bit, sir, and ask you whether you feel that when the commission brings back its recommendation, all the people of Nova Scotia should then have a vote to say whether the boundary line, and let me be personal and use the example of my own constituency and the constituencies that abut on it, whether that boundary line should be on Agricola Street or Robie Street? Do you think that that is a matter on which the people of Nova Scotia should be required to vote to determine whether the boundaries are fair and proper? That is in essence what we are asking this commission to do.

We are going to give the commission certain guidelines. They will be the ones, sir, who will decide where the boundary lines will be drawn. They have to take into account the principles as laid out in legal decisions, in particular the decision we are talking about today which was handed down this morning by the Supreme Court of Canada, to move as closely as possible to the principle of one person, one vote. Every person in Nova Scotia who is entitled will have a vote. That situation will not change. What will change is the geographically defined area within which they vote and hopefully, if the commission sees fit, there will be a special seat for the Micmac population of this province to redress a wrong that has been done and has been perpetuated over many years.

So basically, sir, that is the mandate of this committee and we have been directed to carry out that task by the Legislature and that is what we are about.

MR. WILLS: I just thought that if they are going to start dividing up by ethnic groups, we are going to have so many MLAs, the taxpayers cannot afford them.

MR. CHAIRMAN: With respect, I think you are misinterpreting the mandate given to this committee. Indeed, it is not our intention to direct the commission to draw boundary lines based on ethnic origin at all. That will not be one of the mandates.

However, I think it is fair to say that the committee will likely indicate that these are factors that should be taken into account by the commission, so that the community of interest of these various groups in our society can be given as much recognition as possible.

MR. WILLS: Can I read a portion of the resolution here?

MR. CHAIRMAN: Sure, by all means.

MR. WILLS: Resolution No. 1681(e), "That the House declare, for the guidance of the select committee, its support in principle for:", and I am going to start off with (ii), "The need for boundaries that address community of interest in the composition of the House, including the Acadian and black communities; and (iii) The importance of having a person from a minority group serve on the Provincial Boundaries Commission, on this occasion to be a person from the black community;".

They have already mentioned further up about having one for the Micmac people. Now if they are dividing it up by cultures, unfortunately you are going to open a box that the Greeks, the Lebanese, everybody is going to feel they are slighted against.

MR. CHAIRMAN: So far, nobody from any of these other ethnic communities has come forward to indicate that they feel they have been left out in this process.

We have also been given, Mr. Wills, a very short timeframe within which to work. We advertised in all of the newspapers in the province, the press have given some publicity to the work that this committee is doing. Also, in addition to the advertisement, we contacted a number of organizations throughout the province, asking them to come forward if they are interested, in order to address the issues that have been laid on our plate.

So with respect, I am not sure that I can accept the criticism that you have made. Certainly you, yourself, noticed the advertisement in sufficient time to come and present your views here this afternoon. It seems to me anybody else who is interested in assisting us in our work would also have an opportunity to do so. We have agreed to make as much time as we can available to people who want to be heard by this committee.

Mr. Leefe has a question.

HON. JOHN LEEFE: More a view than a question and if Mr. Wills would care to respond to it, Mr. Chairman, through you, I would be most pleased to hear that response.

It seems to me that an underlying concern of Mr. Wills' may be that minority representation could lead to an impingement of minority opinion on the majority. Just doing a little bit of very quick arithmetic, and I do not fancy myself as any great mathematician; if the commission came back with a recommendation that there be a seat to be provided the aboriginal community, a seat which would encompass within its bounds a significant portion of the black population, such that the black population within that seat would have opportunity to exercise a reasonable degree of voter power. If there were to be one or even two seats designated for the Acadians, it would only be four out of 53, which is only about 8 per cent. I cannot possibly see that 8 per cent of the seats would pose any threat to the other 92 per cent in terms of influencing the way in which a government operates.

[3:15 p.m.]

Also, I think we should not lose sight of the fact that whether there are one or several seats representing that kind of community of interest, almost assuredly those persons would be involved in a political process through a political Party system. It would be part of the mainstream of political life in Nova Scotia, not set apart from it. I think, reflecting upon the very pluralised of society in which we find ourselves now and also reflecting upon the fact that in Nova Scotia we can define communities of interest because of where large segments of certain parts of our cultural population are living, that it is appropriate that we not constrict the activities of the commission in terms of their determination, whether or not these factors are of such importance that they should result in the commission making decisions which would cause seats to be based on that kind of criteria.

My own personal view is and where I can make a representation to the commission, I would make this part of it, in fact, the democratic process and representation would be greatly enhanced as a result of the provision of a greater electoral opportunity to those kinds of communities of interests, than is currently the case. Mr. Wills and I may have very different views on that, but I would be most interested if you would wish to respond, to hear him out.

MR. CHAIRMAN: Okay. Do you want to respond Mr. Wills to anything Mr. Leefe has said and then Ms. McDonough and Mr. Brown. I do not think we want to get too far afield here.

MR. WILLS: I agree, Mr. Chairman. My view is, that all the people of Nova Scotia are being represented now and adequately. I feel that a change in the boundaries, basically to push through Resolution No. 1681, is not what you would call democratic.

MR. SPEAKER: Ms. McDonough.

MS. MCDONOUGH: Perhaps the best place to start is to respond to that comment, Mr. Wills. You may feel that all people are being adequately represented now and you are certainly entitled to that view. I would have to say, however, that all 51 members of the Legislature, we have a vacancy, do not share that view because there was, first of all, a unanimous agreement reached by consensus among the three Party Leaders and then fully endorsed unanimously by this resolution in the House that, in fact, there were good reasons for there to be some revision of our electoral boundaries.

I think the main point I would like to respond to, you put a question really of whether we felt that the current boundaries discriminated in any way, specifically, against any race or culture and expressed a concern about there being any special representation provided to any particular groups. I think what I would like to try to explain is that we were operating, as political Leaders and Parties, on the basis of two realities, one is that there have been significant population shifts, that means there are great disparities inequalities between and among the size of constituencies.

Secondly, the other reality is that there exists in our province today, as a very ugly reality, systemic discrimination and institutionalized racism that is very deeply embedded in Nova Scotia's society. Although one cannot hope that realigning electoral boundaries and readjusting the composition of the Legislature will eliminate that by any means, it is also recognized that it is a concern that we share, that there has never been, for example, a Micmac elected to the Nova Scotia Legislature. There has never been a black Nova Scotian elected to the Nova Scotia Legislature. There have recently been some Acadians elected but only in part as a result as having addressed the boundary question at an earlier date.

So the feeling is that we have a responsibility to address first the question of the distribution of the population and how it is represented and secondly recognize that the three largest minorities in Nova Scotia society ought to be given some consideration as legitimate communities of interest in realigning boundaries.

The final point I am going to say and if you read over the minutes of two previous meetings of the committee, it was very much recognized that there could be other communities of interest who wish to express themselves. That is why there was public advertising done, that is why it was recognized that in addition to whatever media reporting there might be, there should be advertisements placed and so on, that it was not in any way to preclude, and the resolution does not preclude, other communities of interest coming forward. In fact it says, including these three groups but it is very much recognized that if others want to be heard, then the committee is prepared to hear them. It is also a reality to recognize the existence of the three largest minority groups from the perspective of a community of interest that should be taken into account.

MR. CHAIRMAN: Thank you, Ms. McDonough. Mr. Brown and then Mr. Wills for a response and then I think we are going to have to move on.

MR. GUY BROWN: Thank you, Mr. Chairman. Just very quickly, Mr. Wills I am not here to defend myself but I personally believe the boundaries situation in Nova Scotia is not fair today and I happen to be the guy who is going to lose his seat. I am not on this committee because some people may think that I was here to protect myself. I have 5,000 voters and I do not think that is anywhere near fair when I look at other colleagues in the House, although in other Parties or whatever, that represent 20,000 people in the Nova Scotia House of Assembly.

So I think the boundaries had to be changed. If anything, I can be critical because we have not moved on four years, five years, 10 years ago with some of the boundary changes. You mentioned the minorities, yes, we believe, all of us in the Nova Scotia House of Assembly, it is time that we have to look at the Micmac, the black and the Acadian and other people.

But what I want to leave you with, that I am pleased you came here to make your point but I want you to go out because this is not the final. There are three stages. There is this committee and I hope that they move on very quickly, this is my opinion, and get the actual commission on the move in this province because they will move all over the province and they will allow people in Cape Breton to appear before them, they will allow people in my area, Cumberland County, or Yarmouth or Cole Harbour, wherever. Let us let this committee get out there and let us let this committee hear from all Nova Scotians. Then it comes back to the House and then it is drafted in a bill and at that time those same Nova Scotians can come back in this beautiful Red Room here and appear before the Law Amendments Committee and again make changes.

So I think there are going to be lots of opportunities and I just hope we do not get it bogged down because I do not happen to think it is very fair that I represent 5,000 people and other members of this House represent 20,000 people. That is not fair and it is sure not fair democracy for those people.

MR. CHAIRMAN: Mr. Wills, for a final response.

MR. WILLS: Well Mr. Brown's comments are very well taken. The fact that if these three things go through in order to give these three special groups boundaries, it is going to be even more unfair and he stated that himself, by the numbers.

I am very pleased to have this chance to appear here and I only wish that if they do hold other meetings that I believe what they should do is they should spell out what the meeting is about because the ordinary person who is reading the newspaper basically passes over this stuff if they are not following what is going on. I felt that Resolution No. 1681, the major parts about what this boundary change was about, should have been outlined in the newspaper.

MR. CHAIRMAN: Thank you very much. I want to point out to you, as Mr. Brown has, that this is only one stage in a long process, that there will be other opportunities for you and other people who are interested in what is going on to appear and present your views. As you know, one of the results of the work of this committee will be to recommend terms of reference to a commission. That commission will consult broadly across the province. I think you should feel free, sir, to appear before that commission and present your views as to how they should carry out their work and how the boundary lines, themselves, should be drawn, so as to come up with what you consider to be a fair and reasonable form of representation for the people of Nova Scotia in the provincial Legislature. Thank you very much for coming.

MR. WILLS: Thank you, Mr. Chairman.

MR. CHAIRMAN: Okay. The next person on our list is Mr. Dan Paul. I would like to invite Mr. Paul to come forward. Again, Mr. Paul, I think, is known to many, if not all, of the members of the committee this afternoon. Dan is well known as the Executive Director of the Confederacy of Mainland Micmacs. I would, first of all, say welcome, Mr. Paul. We are glad to have you with us this afternoon. I know from discussions with you that you are very familiar with the mandate of our committee and we are pleased to welcome you this afternoon. We look forward to hearing your views on how we should be carrying out our task.

MR. DAN PAUL: Thank you for allowing me, Mr. Chairman, and yes, indeed, I have known everybody sitting at this table for quite some time, most of them, so I am not on unfamiliar ground. I am here today to speak on behalf of the Micmac seat, primarily, but I think I am going to go a little abroad and speak on behalf of the blacks and Acadians too while I am here.

To start this off, I would first wish to take this opportunity to publicly thank Premier Donald Cameron for having the courage to openly acknowledge and support the recognition of the special status of our people, who are the original inhabitants of what today is known as Nova Scotia. By him supporting a seat for us, I feel that this is unique in this province. I think this is the first time in 400 years or 500 years that this has happened and I am happy that it has occurred.

A designated Micmac seat is not going to be the cure-all for the tremendous social, economic and racially motivated problems that still prevent our people from enjoying the same standard of living as enjoyed by their peers in the dominant society. However, by beginning the process of recognizing the fact that Micmacs have aboriginal birthrights that need to be enhanced and respected, the government has taken a step in the right direction and a step that is long overdue.

There are people in this province and country that are, through ignorance, under the impression that our people are somehow riding the gravy train and enjoying a free ride. They quite often make public remarks to the effect that they would like to come aboard. To them I say, welcome. We would like for them to come aboard and enjoy the racial persecution, the poverty, the humiliation of being forced to be beggars in your own house. Yes, by all means, come aboard and see how long your voluntary stay will be.

Racism is still a major problem here. It is a problem that has caused untold hardships for two races of people, in particular, namely, the blacks and our people. To the best of my knowledge, poverty as a way of life has never been a status that was actually sought out by any race of people as a desirable way to live. Neither the blacks nor our people volunteered for poverty status. We were force-fed poverty by a racially motivated society.

A little over 30 years ago, we were finally accorded citizenship in this country. Right up until the late 1950's, we were considered wards of the government and had no status as citizens. It was 1962 before we could even vote in this country. In 1961 I would not even be sitting here because it would not be of any significance.

Education in this province over the past 100 years or so has been consistently and constantly denied to two races of people, again, our people and the blacks. We are disadvantaged because we have no representation in the houses of power.

[3:30 p.m.]

What we need from politicians and political Parties is also a little more than lip service. How many black candidates were put forward by the Conservative Party and the Liberal Party last election? How many Micmacs? I believe the NDP had one, so at least there was one. (Interruption) Pardon me?

MR. MACEWAN: We had one black candidate.

MR. PAUL: But that is an improvement. We are getting there but it is going to take a lot more to do it.

Assimilation of the Micmacs in Nova Scotia is not going to happen. It has been attempted for the last 400 or 500 years and, as a matter of fact, it was the policy of the federal government right up until two years ago, when they finally abandoned that particular policy.

Now I want to talk about aboriginal rights. There are people who ask questions, why should we, as Micmacs, be permitted special status in our own country? If you look to Europe in the last election in Poland, a Polish Canadian ran for president of that country because he was accorded aboriginal rights in his own land. Israel has the law of return. Any Jewish person in the world has the right to go back to Israel and pick up instant citizenship. That is aboriginal rights.

The Chinese refer to Chinese people residing throughout the world as overseas Chinese, who have the right to go home at any time. The Italian people are abandoning Argentina and returning to Italy. They do not go through the regular immigration process because they are going home, and I can go on and on.

If I, as a Micmac, want to go to any one of these places I just mentioned, I would have to go through the individual immigration process because I have no aboriginal rights in those countries.

I sincerely hope that the advice being sought here today by your committee in relation to completing your task of formulating terms of reference for the work of a redistribution commission, will, in large part, become part and parcel of your recommendations. To see this process eventually result in a designated Micmac seat and also to see a riding develop that will give a black candidate a better than even chance of success in seeking election to the Legislature will be an eventuality that will prove to be an effective weapon in an ongoing battle against racism.

If blacks and our people are to make any substantial progress in fighting racism and poverty, then we must have a voice in the halls of power. We cannot rely upon the good intentions of others to speak on our behalf, for who else but ourselves are best equipped to bring forward our agendas for progress in our own communities?

Some of the terms of reference I would like to suggest to be incorporated into the Micmac seat would be that the seat be restricted to registered Micmacs living on reserve communities throughout Nova Scotia and that the occupant of the seat be accorded all the rights and privileges of any other member and the right to vote. In order to prevent any stereotyping, considerations should also be given to Micmacs living off reserves, to exercise their franchises within their home communities and that political affiliation be recognized for this particular seat.

The election for this seat would have to be, I would say, province-wide. I would suggest that a centralized band, perhaps Millbrook, be designated as the place where the nominations would occur. You need something central.

I probably left out a good many things that I should have come forward with but, due to the late arrangements for this particular presentation, I did not have too much time. But I felt I was compelled to come here and point out a few things. At one time there were no Acadians in the House and when the first Acadian was elected, the province did not stop turning, the world did not stop spinning.

Three years ago, we signed the first conservation agreement with the Province of Nova Scotia. The hysteria throughout the media was almost unbelievable and the funny thing, I think the first year it was 280 deer were killed under that particular agreement.

The Micmacs in this province managed quite well before the first Europeans came. We were subjected in this province to out and out genocide. After things became a little more sophisticated in the 1800's, starvation replaced bounty hunts and so forth and so on.

In my time, and I am only 53 this year, I have seen the poorest relocation of Micmac people in the Province of Nova Scotia from one area to another, children taken from their homes and put in residential schools. Have we been discriminated against, persecuted? Yes, we certainly have. I think a wonderful way to have part of this problem redressed would be for this province to make room for our Micmac representation in this House. Thank you.

MR. CHAIRMAN: Thank you very much, Dan. I just have one or two questions that I would like to put to you. In discussions about the mechanism by which a Micmac seat should be established, there appear to be two different methods and you have spoken to one of them today as being your choice and that is that there be geographic designation and that the seat be restricted to registered Micmacs on reserves. Then you go on to say that consideration should be given to Micmacs living elsewhere in the province than on reserves.

That second part of what you have said, while I appreciate where you are coming from, seems to me to create some difficulties. First you all, you have the question of whether a Micmac living off the reserve should have, well, let me ask it in the form of a question. In your view, would such a person have to make a choice as to whether he or she wants to vote in the constituency where he or she lives geographically or be entitled to vote along with the rest of the Micmac population of the province for the Micmac representative? Would, in your view, that person have the right to take one choice or the other? Do you get the drift of what I am trying to get at here?

I take it from what you are saying, you are not suggesting that that person should have two votes, that they should have the right to vote for candidates who present themselves to represent the geographic area and also be entitled to vote for the Micmac representative. Am I reading you correctly in this, Dan?

MR. PAUL: The reason I say that is in a good many cases we have Micmacs who live off reserves adjacent to their communities due to circumstances beyond their control. They really have no choice because housing is not available and so forth and so on. In my own case, I live here in Halifax, and I have lived here for 30 years. I think I will be voting for whoever is running out my way and as a result I will have some clout, I think, when I want to go to that particular him or her to ask for something to be done in a certain area. That is what I was referring to really. I think it would be a choice, even for those individuals, if they wanted to go and participate in the election of the Micmac candidate or in the regular riding that they reside in.

MR. CHAIRMAN: Let us use you as an example. You have indicated what you would do but would you think that somebody else in your circumstances should have the option to say, hey, I would sooner vote for the Micmac candidate or one of the Micmac candidates and not bother to vote where I live. Do you think that option should be available to you?

MR. PAUL: I am saying that, yes, but like I am saying that I figure that I lived in . . .

MR. CHAIRMAN: I know what option you would take but do you . . .

MR. PAUL: Okay, what I am saying though, I should really, in reality, have the option, if I so choose, to return to Millbrook and vote for the Micmac candidate. But if I decide not to, I think that also is part of democracy.

HON. GUY LEBLANC: I understand that every registered Micmac holds status, is also registered with a band? So there would not be any real difficulty in establishing who would be eligible to vote, whether he lived on a reserve or off a reserve, in that particular case. Do you see any problems that way?

MR. PAUL: There are band lists available for all our bands in Nova Scotia and all registered band members, their names are listed on those lists.

MR. LEEFE: Sort of like having a permanent voters' list, actually.

MR. MACEWAN: I was wondering, Mr. Chairman, if you, Mr. Paul, could give us any idea of approximately how many voters do you think there would be in this constituency that this would set up?

MR. PAUL: At this point in time there would probably be somewhere in the neighbourhood of 6,000 to 7,000.

MR. MACEWAN: I do not see any harm in what he is proposing, Mr. Chairman, as long as it is logistically feasible. I know that the Party I belong to set up the Nova Scotia Liberal Aboriginal Commission for the very purpose of attempting to promote this type of activity. I certainly feel it would be to the advantage of the province and of the Micmac community if this could be done.

You mention where the location of the returning officer's office would be, you would want it somewhere central. Well, the government would, presumably, appoint a returning officer in that constituency, the same as they do in every other, and the nomination would be made by the candidates to the returning officer.

You have no difficulty now with the idea that the Liberal Party and the Conservative Party and the New Democratic Party would nominate candidates to run in this constituency? You are not envisaging a non-Party or Independent constituency with non-Party status? Would you comment on that? Premier Donald Cameron, I know he has been quoted as saying that he is envisaging the election of a non-Party member to represent this seat, with which I personally disagree. (Interruption) The Halifax Chronicle-Herald said he said it.

MR. PAUL: I do not recall having that message brought to my attention. I think I would prefer to see an individual run affiliated with a Party. I understand the Reform Party is moving east, too. (Interruption) An Independent, yes, is what I was going to say next. If there are individuals who so choose to run as Independents, then, by all means, that is entirely within the realms of possibility.

MR. CHAIRMAN: An Independent can run in any constituency now, if he wants to, sure.

MR. LEEFE: I concur entirely with that observation and beyond that. I would hope that the commission, if it makes such a recommendation, will not place any restrictions on who may offer for that office. It seems to me that it would be up to the Micmac community to determine, through the election, who they wanted to have represent them, irrespective of that person's race or cultural background.

The Micmac community might decide somebody of Italian original can best represent their interests and the Micmac community is the best group to make that decision. That is not up to us to determine.

MR. PAUL: I would like to see what you are saying incorporated into it, yes. I think it would be up to us to make the decision, who we want to run.

[3:45 p.m.]

MS. MCDONOUGH: Thank you, Mr. Chairman, just one point of clarification. I am not sure whether I did not understand what you said or whether you did not specifically address this. You indicated that you think persons such as yourself, living off reserves, should have the option, if they so choose, to return to vote within the band context. In other words, if you should choose to go and vote in Millbrook, you should be free to do so.

Would it also be your recommendation, let's say, that a resident of Millbrook should have the option of whether they vote within the Micmac election or whether they should be free to opt to vote within the geographic electoral constituency in which they happen to live, in that instance, I guess Truro-Bible Hill?

MR. PAUL: It is hard to answer that type of question really. The way I am going to put it is that I think you are going to create a new constituency, if it comes to pass, and it is going to have to have boundaries. If you are listed within those boundaries, then I would presume you are going to be required to vote for whoever is offering within those particular boundaries.

I do not think that we are going to see this come to pass and have all the wrinkles ironed out initially. I think it is going to have to be to try and hope that most things are going to work out and if not, then re-visit and perhaps put in some more effective controls that may be needed or make it broader. We have not had much experience in this business. That is the best answer I can give you on that subject at this point in time.

MS. MCDONOUGH: So what you are saying is that really the reserves added together should be seen as a geographic electoral entity and if you lived on reserves, you would be voting for the Micmac candidate but not voting in the geographic constituency in which you lived?

MR. PAUL: I think I would like to see you voting exclusively for the Micmac candidates. I think I would want to make one further comment on the subject of eduction, I brought it up briefly. You pick up a history book in Nova Scotia, you would never know that Micmac-European wars went on for approximately 150 years in this province and some of the atrocities that occurred and so forth and so on. I would like to see a situation arise where you have somebody that can stand up in the House and say it is about time our story was told.

One of the biggest causes of racism in Nova Scotia is ignorance. People really have no appreciation of the fact that we have not chosen poverty as something that is desirable. It was something that was forced upon us over a long period of time. What we need is to have a person available, whether it lasts for 100 years or 50 years or whatever, I do not know, but we do need special representation at this point in time, to get our points of view across.

I think by and large, our people's position has not been represented and when you do live on a reserve it is really not that important if you live in a certain provincial constituency or not because we, at this point in time, have been excluded from most provincial programs anyway. I would say if we do have representation in the House that that individual, one of their prime responsibilities would be to begin to hack away at this particular oversight, I will call it at this point in time, and that most of these programs be extended to cover all Nova Scotians, including our people.

If this becomes a reality, whoever takes on the job is going to have a major agenda ahead of them. There is a lot of work to be done. I would hope to see our own people place somebody that they feel comfortable with in this House if we, in fact, see this eventuality come to pass.

MR. GUY LEBLANC: I was just wondering if, in your position, as to who should be voting or have the right to vote and the way it would be done. Is that a position that has been discussed and agreed by the chiefs in any formal way? Because I have heard in some meetings some discussion as to a different criteria for people that would be eligible to vote.

MR. PAUL: It has been discussed among the six chiefs that are in our organization, (Interruption) That is right. I have discussed it to a certain extent with some of the other chiefs in Nova Scotia. I can tell you right now, after coming from a meeting that embodied all the chiefs here, the councillors in Nova Scotia know, that I am here to speak on behalf of a large portion of Micmacs in this province who, I think, have similar feelings that I have.

MR. GUY LEBLANC: Yes, I am not asking a question to put you on the spot. I just want to make sure, and I know we will have representation from other groups. You certainly feel strongly that the people that should be voting should be registered Micmacs and people should have the choice if they are off the reserve to vote with their band council.

MR. LEEFE: I would have to say, from my own experience, I have two very small reserves in my constituency and most of the Micmacs living in Queens County live off the reserve. I would have to say, knowing many of them well, that the views that Dan has put forward today would be representative of their views.

MR. CHAIRMAN: Okay. Thank you very much, Dan. We appreciate your coming before us. You can be assured that we will take the views you have expressed here this afternoon into account as much as we can in determining the directives that we will be giving to the commission. I am going to ask you, also, to bear in mind that this is only one stage in the process and we hope that you will be willing, when the commission is actually established, to appear before them to present again the views that you have let us have the benefit of this afternoon.

MR. PAUL: I can emphatically assure you I will be doing so.

MR. CHAIRMAN: I expect you will be front and centre, yes. Thank you, Dan. All right. Ladies and gentlemen, we have one remaining witness for this afternoon. I am very pleased on behalf of the committee to ask Reverend Darryl Gray to come forward, if he would please. Reverend Gray is the President of the Cultural Awareness Youth Group, a man very active in his community, a man who has taken a close interest in the work of this committee, in the electoral redistribution, generally.

Rev. Gray, we are pleased to welcome you here this afternoon. Please be seated and relax. As you will have observed, we are being very informal this afternoon. You have a written submission, I see you have handed it to Mrs. Kelly, that will be circulated. We would like to have you just speak to your submission and then, if you would, be willing to respond to questions, as I am sure there will be some from the members of the committee. Welcome and we look forward to hearing from you.

REV. DARRYL GRAY: Thank you very much, Mr. Chairman. I would like to say, first of all, to the Chairman of this committee, Mr. Arthur Donahoe, and to the other honourable members on behalf of the Preston Political Coordinating Committee, and with the approval of the Board of the Cultural Awareness Youth Group of Nova Scotia, I thank you for this opportunity to be here this afternoon to make this presentation on their behalf.

I would first like to call your attention to the very well written publication published on behalf of the Nova Scotia House of Assembly by the Nova Scotia Information Services, entitled, The Nova Scotia Legislature. I would like to take a couple of quotes from that document, starting with the beginning of the publication, whereas it reads:

> "Within the grey walls of Nova Scotia's Province House lie the bases of Canadian democratic freedom. A bronze tablet at the entranceway commemorates 'the convening of the first General Assembly of Nova Scotia which met for the dispatch of business at the Court House at Halifax on October 2nd, 1758. This was the first assembly of elected representatives in Canada. . . . The representative government of 1758 was the first big step in the evolution of our democratic institutions.".

But, oddly enough, there were still some things to be desired. As the book indicates, voters had to own freehold property, be 21 years of age or over and, of course, be British.

In time, with religious tolerance of that period, Catholics were not allowed to vote. As for foreign Protestants of Lunenburg, they were quickly neutralized as to ensure eligibility. Thus the first Legislative Assembly in Canada was elected by the people of Nova Scotia, 22 original members, with some very obvious characteristics; they were all white males.

I read this for the information of those who may ask the question, what is the premise for our action? Why do we, the Province of Nova Scotia, have to lead the way on this issue? I submit to you, because of our own history. Because it was Nova Scotia who set the example, who laid the foundation for representative government in this country and it is Nova Scotia who must begin with this committee, the struggle to bring democracy to all people of this province, black and white, native and Acadian.

Let me say, before I continue with what I have prepared, that this is an issue that does not affect just black nor Acadian nor Micmac, but it affects people throughout this province, because of the population shift and because of our charter, which guarantees one person, one vote; not one county, one vote; not one city, one vote; but one person, one vote.

Let us make our intentions clear, we, black people in Preston and throughout Nova Scotia, must and will have political equality. We want our one person, one vote not given to us but guaranteed to us. We do not want it fed to us in teaspoons over another couple of hundred years.

Today, because black people do not have direct say so as to who will represent us in these great Chambers, the Legislative Assembly is dominated, as indicated, by white males who, according to the Charter of Rights and Freedoms, are not elected in a fair or legal manner. I will only add that according to the Supreme Court of Canada, are not elected in a fair or legal manner.

003

What is your premise? I submit, Mr. Chairman, that we as Nova Scotians, black; white; native; Acadian; male; female; rich; poor; farmer; miner; Liberal; New Democrat; and Tory, must no longer permit our heritage to be dishonoured before this country. There may even be those who will say, as I have heard even today, what more will blacks expect if they gain such rights as integrated schools, affirmative action, access to economic opportunities and voting rights. Will they, like Oliver Twist, demand more?

What is even more amazing than the question of premise is the assumption that society has the right to bargain with blacks for political equality. Some of the most vocal public servants of this province believe that they have a valid basis for demanding that in order to gain certain rights, blacks ought to pay for them out of the funds of patience and passivity which they have stored up for years.

What these people do not realize, Mr. Chairman, is that moderation and gradualism are not the answers to the great moral indictment that the lack of political representation causes. What they do not realize is it is no more possible to be half citizen, half free than it is to be half alive, which leads me to the question as to why you have been established.

The essential questions here, or rather the legislative framework at issue which is the legislative framework of Nova Scotia, infringes the voting rights guaranteed under Section 3 of the charter. Section 3 of the charter states that every citizen of Canada has the right to vote in an election of members of the House of Commons or of a Legislative Assembly and to be qualified for membership therein.

[4:00 p.m.]

By the way, it is the federal law, it is the courts who have been overseeing these rights and have protected the interests of citizens, even if there are those who may even sit on your committee who may have problems with the charter, for whatever reasons you may have. To us it has been the personal and political salvation of black people, particularly as it relates to the protection of individual rights and freedoms.

Our democracy is based on a political system in which the will of the people is sovereign. In this country, people govern themselves through their elected representative. The right to choose a representative is every person's portion of sovereign right or sovereign power. As the court has stated very clearly, more is intended than the bare right to place a ballot in a box. The right of suffrage is not a gift but a guarantee. This right cannot be denied by a debasement or dilution of the weight of a citizen's vote, just as effectively as by wholly prohibiting their free exercise of the franchise. I have to also pause here and say, Mr. Chairman, black people have been disenfranchised from 1758.

The court has said that the one person, one vote rule is the guiding ideal in evaluating electoral distribution schemes. As we, in the Preston communities, advocate for the designation of community of interest, to include whatever variance is needed in designing a riding that would reflect our historical and cultural uniqueness, we would also urge that the committee acknowledge that this community was, without question, a victim, intentional or unintentional, of being denied access to the legislative decision-making body of this province, through gerrymandering. The personal right to vote is a value in itself and a citizen is short changed if electoral abuses or distribution rules dilute that person's portion of sovereign power.

In conclusion, decades of delay have passed since slavery was abolished, full citizenship granted. Yet, today, the heirs of slaves are not fully free. We have not been freed from the bonds of injustice, we are not free from social and economic oppression nor are we free from political exclusion.

Legislative boundaries, as they exist here in Nova Scotia, send the signal that Canada may not be a land so strong and free. It took the case in Saskatchewan and action in New Brunswick to increase the call of cries for equality. Now, Mr. Chairman, I dare say that the cries are so loud that no one can choose to ignore them.

It is time for this committee, each one assembled here today, and for this province to act. The fear of change is apparent, as was indicated through Mr. Wills, who I did have an opportunity to speak to in the hallway, and have scheduled a time when he and I can sit down and drink a cup of tea, so that we can exchange views.

Mr. Chairman, let me also say that we must not limit ourselves to tokenism, which is a promise to pay what is owed, but we must forge ahead to democracy and that final payment that is due blacks, Micmacs and Acadians. We must move now and not accept the attitude that time will heal all things, for time itself is neutral. It can be used destructively or constructively. We must all understand that human progress never rode in on the wheels of inevitability. It came through the tireless efforts of men and women working together. Without this working together, time itself can become an ally of the forces of social or, in this case, political stagnation. You must use this time creatively in the knowledge that the time is always ripe to do right.

Now, if you would please accept the following recommendations for the establishment of the electoral boundaries commission:

1. Composition of electoral boundaries commission. We, the Preston Political Coordinating Committee recommend the following, that the commission be comprised of at least seven members, one to be a member of the black community; that the commission members not be affiliated with a political Party; and that the appointments receive at least some majority vote of this select committee.

2. Terms of reference. That the commission be dictated by the findings of the Supreme Court of Canada regarding this issue; that the commission be governed by the Charter of Rights and Freedoms, for specifically the sections governing equal political rights, one person, one vote and affirmative action provisions.

That the commission take into account community of interest, specifically as it relates to the Acadian and black and Micmac communities; that the numerical deviation in determining the boundaries for the community of interest areas range from 25 per cent to 33 per cent, justified by the charter's affirmative action provisions.

That the legislative boundaries be determined by population versus voter. I also have to pause for a moment to explain that in talking about one person, one vote, we do not take into account the rights of the child. We do take into account the rights of those people who are eligible to vote, by way of age, but we do not take into account the right of the child who must also be represented in our political system.

The Preston community would also allow that the commission look into the possibilities of boundaries based on eligible voters, which from my understanding is where we are at this point.

That the commission acknowledge that members of the province's black communities have been the victim of gerrymandering, which has diluted the voting power of these communities. This gerrymandering has also been responsible for the lack of full political representation by black voters, black residents.

That the communities of what I have designated here, based upon some statistics that we have looked at, Preston-Westphal, be viewed as a suburban community with special community needs and concerns that are not presently being represented by current members of the Legislative Assembly, due to rural and urban influences. I feel it is important to explain that.

If you know the ridings of Mr. Thomas McInnis and Mr. Nantes, and it does not reflect upon their personal commitment but it does reflect on the influence that a rural constituency will have, based upon populations and an urban constituency. If you look at where the Preston communities are suggesting that a riding take place or be established, it is at the far end of Mr. Nantes' riding, going out of Dartmouth into Preston, and the end of Mr. Thomas McInnis' seat coming out of Porters Lake and Lake Echo, going into Preston, which is a unique geographical location. It is more of a suburban location, environment and attitude.

That the commission mandate would supersede whatever municipal boundaries considerations exist presently. What we are saying is that we recognize that historically the boundaries have been drawn using the county boundaries. We are saying that we hope the commission mandate would supersede that, to take into account, as was indicated, one person, one vote.

3. The timetable of the commission. It is recommended that the commission, in the best interests of both government and voters, complete their mandate, (1) prior to the opening of the fall Legislative Session, 1991 or (2) before the next provincial election, whichever comes first. We do not say that trying to be facetious, we are just trying to protect what we feel needs to be protected, and that is this thing becoming a political tool. We are very fearful that that may happen, so we are hoping that these recommendations are looked at very seriously.

4. It is also recommended that the House select committee conclude their mandate no more than two weeks following the three week mandate that was given by the Legislative Assembly.

5. It is also recommended that the House select committee take into account, and I have to explain this because my secretary left something out, where we indicate person it should reflect, in No. 5, that the word person refers to a member of the electoral boundaries commission appointed from the black community and that this committee would like to recommend that person and that this recommendation be given considerable weight, particularly due to the historical population and geographical factors of this area.

The area that I refer to when I mention Preston is North Preston, East Preston, Cherrybrook and Lake Loon, all historical and traditional black communities which have been historically and traditionally excluded. Historically black by population only because traditionally we have been isolated, as a result of racial attitudes and injustice.

On behalf of the Preston Political Coordinating Committee and the Cultural Awareness Youth Group of Nova Scotia, I would like to thank the Party Leaders and members of this select committee and other supportive parties in their efforts to work together to develop and ensure that all people in this province receive full and equal protection under the law.

I will be more than happy to answer any questions that I can. Please ask me all the easy questions; I have my colleagues here for any hard ones that you might have.

MR. CHAIRMAN: Thank you, Rev. Gray. Before I recognize Ms. McDonough, I just want to ask one quick question myself. Rev. Gray, I know this is a question that is more properly going to be considered by the boundaries commission itself rather than by our committee, just so that the committee will have some idea.

The communities that you have mentioned, the Prestons and Cherrybrook and Lake Loon, that area that you were talking about. Can you give the committee some idea of what approximately the voting population of that area, that you see as being included in one constituency, would be?

MR. GRAY: I think if you just talk about those four communities and as I indicated in what we are hoping to propose before the committee will include more than just those four communities. In those four communities just a guesstimate, rather than an estimate, you are looking at probably somewhere around 3,500 to 4,000 registered or eligible voters anyway.

As I indicated, that is why we are looking at other areas and these areas as far as contact people in those areas have been notified as to what we would like to see, as far as an established riding.

MS. MCDONOUGH: Mr. Chairman, I regret, I have to be back in the House on the Health estimates because the Liberal Health Critic has finished. I just have one quick question and then I will get filled in on what I missed, my colleague John Holm will replace me in a moment. For the benefit of the committee, Rev. Gray, I wonder if you could indicate what the different community groups are that comprise the Preston Political Coordinating Committee because I think a legitimate concern of the group is to ensure that if the recommendation is to come from a particular group that that particular group is, in fact, broadly based and widely representative. Now I am going to leave before you give the answer because I will be able to read it Hansard and get filled in.

MR. GRAY: There are currently eight members on that committee. The President of the Ratepayers Association of North Preston, Allister Johnson; the President of the East Preston Ratepayers Association, Matthew Thomas; the President of the Cherrybrook-Lake Loon Ratepayers Association, Mr. Gary Beals; another representative from the North Preston community, Mr. Morton Simmonds; the Executive Director of the WADE office, Mr. Wayne Desmond; the President of the Afro-Canadian Caucus of Nova Scotia, who is a resident of Preston, Ms. Yvonne Atwell; a coordinator with the African-Canadian Education Product and also a resident of Lake Loon, Ms. Delvina Bernard; and myself who is a resident of East Preston.

MR. CHAIRMAN: Any other questions of Rev. Gray?

MR. LEEFE: That was a very thorough presentation, Mr. Chairman, and you in fact raised the one question that came to my mind. I think one thing that all of us would appreciate is since Rev. Gray and the group he is representing today have expressed interest in nomination of a member of the black community to the commission, that if they would care to provide us with a name or names that could be considered, it would be very helpful to us.

MR. GRAY: We have met on that question, Mr. Chairman, presently there are six names that have been nominated to our committee. We will be meeting on Monday to determine, based upon that list and the qualifications of those people, who would best serve the interests of the community. If I am able to submit that name prior to your deadline of June 14th, or those names?

MR. CHAIRMAN: I think perhaps the committee would prefer a selection of names, Rev. Gray, of people whom your group would consider to be qualified to sit on the commission. I think the more broadly based the group from which, if in fact it is decided that we will be naming names, rather than allowing certain designations to fill spots on the commission, the broader the selection group we have to choose from, the better I think it will be for us.

[4:15 p.m.]

MR. GRAY: It is the expressed opinion of the committee that we choose a name from that committee. I hope that you can understand, based upon 1758 and the fact that we have had no representation, we are very sceptical and we are extremely concerned. If I could, Mr. Chairman, take what you have stated back to the committee, I would hate to say yes, we would do that without first conferring and consulting with those others on the committee.

MR. CHAIRMAN: Okay, sure, exactly. If the committee only wants to put one name forward, then that is, of course, your decision as well. I was speaking from our point of view and indicating that certainly speaking personally anyway, the more broadly based the selection group is, the more comfortable I think I would feel with it personally. I also want to say that we will be hearing from other groups from within the black community so unfortunately I cannot give you a guarantee that any name or names that you suggest, that one of those people will be designated to be our recommendation. But we certainly value the input of you and your group and we are grateful for it.

MR. GRAY: The last thing I wanted to say is that for the record, we have been in consultation with people throughout the province from the various communities as well so our involvement and our views or concerns, although a representative of these communities that have stated, these groups that have indicated, it is also with consultation of other groups throughout the province.

MR. CHAIRMAN: Okay, thank you very much. Are there any other questions for Rev. Gray?

MR. MACEWAN: Well I think I should say a word on this, Mr. Chairman, in view of certain comments that have appeared in the press. I would like to indicate that I certainly have no objection to what I have heard in this afternoon's presentation at all, none whatever. Perhaps the presenter and some of his colleagues that are here do not know me too well but I certainly have a long personal history going back many years of support for the objectives of the black community. I noticed here in my library a book entitled, Unbought and Unbossed, written by Congresswoman Shirley Chisholm.

MR. GRAY: Who I know very well.

MR. MACEWAN: The reason that I have that book in my library is that at the time she ran for President of the United States, almost 20 years ago, I made a financial contribution to her campaign and she sent me that book and a personal letter as an expression of thanks. So Rev. Gray can be assured that there is no intent on my part or on the part of my Party to in any way obstruct him or his submission and they certainly enjoy, at least as far as I am concerned, our full support.

MR. GRAY: Thank you. Just a matter of clarification, Ms. Shirley Chisholm ran in the presidential election and could have very easily been a Democratic nominee during that year. It was only because she received promises that were not kept that she was not a Democratic nominee for that year. So it is a coincidence but being a preacher I have to say maybe a little prolific here that you would mention Ms. Chisholm's name and in my understanding of promises that are not kept.

I do thank you for your words, I thank you for the action on behalf of the committee that is taking place here and we believe that things will be done as quickly as humanly possible with no political or no self-interest. We have to believe that because we have to believe in this system. Thank you.

MR. CHAIRMAN: Rev. Gray, I just want to say before you leave that Ms. Chisholm is not the first politician, nor unfortunately likely will she be the last, who will be the victim of broken promises. Thank you very kindly, we appreciate your coming here this afternoon.

Now that concludes the people who will be making submissions to us this afternoon and I want to thank them one and all. I notice that our legal counsel has been able to join us. Louise could we ask you to come forward? Oh, yes, copies of the Supreme Court decision are being circulated now to members of the committee. This decision is very timely because it, as I say, probably impacts more on the work of the commission than on our work but it certainly will be helpful to us.

Order, please. I have received a letter prior to the meeting from Mr. Endres and Ms. Poirier, indicating that they will be giving full responses to the legal questions that were raised at our last meeting. The memorandum of June 4th does not respond to all the legal issues that were put to our council, so we will be getting further submissions from them.

Okay. Louise, just one further question, would you and Reinhold now, in light of the Supreme Court of Canada decision, be able to do some analyses for us and, perhaps, have something ready by as early as Tuesday of next week?

MS. LOUISE POIRIER: Certainly. The decision follows very closely with the Dixon decision out of B.C. In fact, it was written by Madam Justice McLachlin.

MR. CHAIRMAN: Fine, okay, great. Thank you very much. All right, now, I am going to suggest to the committee that we meet again on Tuesday, June 11th at 2:30 p.m., if that is agreeable. At that time, we have heard from the following people who would like to make submissions to us, Ms. Carolyn Thomas, who is a Moderator of the African United Baptist Association; Mr. Dwight Dorey, President of the Native Council of Nova Scotia; Mr. Davies Bagambiire of the Afro-Canadian Caucus of Nova Scotia, who will be joined in the presentation by Ms. Lynn Jones, a member of the Afro-Canadian Caucus of Nova Scotia.

We will have the great pleasure of hearing from a Nova Scotian very familiar with the matter that the committee is responsible for, Mr. Jeremy Akerman, a former member of the Nova Scotia Legislature who wishes to make a submission to the committee. We look forward with great interest and anticipation to Mr. Akerman's presentation next Tuesday afternoon. By then, we may well have more indication from people who wish to make submissions. The advertisement will be appearing again between now and that time, so we may have more people coming forward.

Now, one other thing. I have received a letter from a Mr. R.G. Petersen who is the President of a company called the Birling Communications Group Incorporated, who operate out of an address of, Forestside Crescent in Halifax. I am trying to think of a proper way of describing the nature of the work that his company does. Suffice it to say that I think it is the kind of work that might well be of assistance to a commission. It is technical-type work and they can produce maps which designate the population size of specific areas within a defined geographic region. They use computer technology and so on to do this.

I think the best bet would be for me to circulate a copy of Mr. Peterson's letter to the committee. Again, I do not know that it is something we want to concern ourselves with directly, but it may well be of interest to the commission when that group gets its mandate and begins its work. So I will ask Mrs. Kelly if she would duplicate that letter and send it to the members of the committee.

Is there anything else that any member would like to bring up? We agreed, 2:30 p.m. Tuesday for the next meeting? Okay. We are adjourned until 2:30 p.m. next Tuesday. Thank you all very much.

[The Committee adjourned at 4:24 p.m.]

HANSARD

NOVA SCOTIA HOUSE OF ASSEMBLY

COMMITTEE
ON
ELECTORAL
BOUNDARIES

Tue., June 11, 1991

RED ROOM

Printed and Published by Nova Scotia Hansard Reporting Services
(Editor - Rodney Caley)

ELECTORAL BOUNDARIES COMMITTEE

Mr. Arthur Donahoe (Chairman)

Mr. Jack MacIsaac

Hon. Guy LeBlanc

Hon. John Leefe

Mr. Ross Bragg

Mr. Paul MacEwan

Ms. Alexa McDonough

In Attendance:

Mrs. Joan Kelly
Legislative Committees Clerk

WITNESSES

Mme. Murielle Comeau, Président de la Fédération des Parents Acadiens de la Nouvelle-Écosse
Mr. Jeremy Akerman, Private Citizen
Mr. Davies Bagambiire, Afro-Canadian Caucus of Nova Scotia
Mr. Peter Alapin, Private Citizen
Mr. Ronald McDonald, Private Citizen

MR. ARTHUR DONAHOE (Chairman): Order, please. There is important business going on in the House which will take us away from this hearing at some time a little later on. Meanwhile, I suggest that we try to make as much progress as we can and then conclude our business, as soon as possible, after our return from the Legislature.

Now we have seven people to make presentations to us and I am going to read them in the order that they will be appearing before us: Premièrement, nous avons Mme. Murielle Comeau, Président de la Fédération des Parents Acadiens de la Nouvelle-Écosse. Madam Comeau has travelled some distance to be here and so for that reason, I know others may have as well, but she has especially asked that she be allowed to be heard first and we will be able to grant that request.

We will then hear from Mr. Jeremy Akerman, a former member of the Legislature; followed by Mr. Davies Bagambiire of the Afro-Canadian Caucus of Nova Scotia, who will be accompanied by Ms. Lynn Jones; followed by M. Paul Comeau, de la Fédération Acadienne de la Nouvelle-Écosse; then by Ms. Carolyn Thomas, who is the Moderator of the African United Baptist Association; and then Mr. Peter Alapin, a private citizen who has asked to have an opportunity to present some views.

Mr. Ronald McDonald has also asked for the opportunity to appear and make a presentation for about 10 or 15 minutes. We will certainly try to fit him in at the conclusion of the other presenters. So if it is agreeable to the committee, I would like then to call on Mme. Murielle Comeau to come forward if she would, please. We look forward to hearing the presentation she will be making to us.

Je vous dire bienvenue à la comité and we are very pleased to have you with us and look forward to your presentation, Mme. Comeau

[2:45 p.m.]

MME. MURIELLE COMEAU: Thank you. Considering we are here to express our concerns concerning the electoral boundaries as they relate to the Acadian regions, I have decided to speak in French.

MR. CHAIRMAN: Très bien.

MME. COMEAU: Au nom de la Fédération des Parents Acadiens de la Nouvelle-Écosse (FPANE), je vous remercie bien de nous avoir fourni l'occasion de vous présenter nos suggestions en ce qui a trait à la composition et les termes du mandat . . .

MR. CHAIRMAN: Est-ce que c'est possible pour les députés de suivre votre présentation dans la version anglais. Oui? Okay. Any member who has to do so, can follow what Mrs. Comeau is saying by following the English copy of the presentation that she will be making. (Interruption) I said anybody who has to. Pas de problème pour tous les députés. Okay. Très Bien. Continuer, Madame.

MME. COMEAU: Nous pensons que cette question est d'importance capitale pour tous les Acadiens de la Nouselle-Écosse et mérite une attention toute particulière.

Aujourd'hui, nous nous proposons de vous faire part des grandes linges de nos attentes en ce qui concerne la composition et les termes du mandat de la Commission.

Pour ce qui est de la composition de la Commission, nous recommandons qu'il y ait une représentation équitable d'Acadiens qui siègent au sein de celle-ci pour, en effet, bien représenter les intérêts de la communauté acadienne.

Quant aux termes du mandat de la Commission, nous préconisons que celle-ci doit tenir compte du récent jugement de la Cour suprême du Canada dans l'affaire the Attorney General for Saskatchewan contre Roger Carter, Q.C., et al. Cette dernière stipule ce qui suit:

The purpose of the right to vote enshrined in Section 3 of the charter is not equality of voting power per se but the right to effective representation. The right to vote therefore comprises many factors, of which equity is but one. The section does not guarantee equality of voting power.

Relative parity of voting power is a prime condition of effective representation. Deviations from absolute voter parity, however, may be justified on the grounds of practical impossibility or the provision of more effective representation. Factors like geography, community history, community interests and minority representation may need to be taken into account to ensure that our Legislative Assemblies effectively represent the diversity of our social mosaic.

La Commission devra tenir compte du poids que l'on donne à community interests, en particulier, au facteur linguistique de la communauté acadienne, tout en s'appuyant sur d'autres facteurs tels que la représentation minoritaire, l'histoire de la communauté et l'aspect géographique. A cette fin, la commission devra clairement établir que la définition du terme community interests englobe la question linguistique.

Quant à la redéfinition des frontières électorales, une attention toute spéciale devrait être accordée aux circonscriptions qui ont un pourcentage élevé d'électeurs Acadiens, soit: les régions d'Argyle, de Clare, d'Inverness et de Richmond; sans pour autant exclure les régions de Halifax-Dartmouth, de Pomquet et de Sydney.

Nous suggérons fortement qui la Commission se déplace en région pour entendre ce que les Acadiens ont à dire à ce sujet et que la Commission mette sur pied les mécanismes pour recevoir des présentations orales et écrites en français de la part des membres de la communauté acadienne.

Nous aimerions soulinger à ce moment-ci, que nous sommes sensibles aux besoins de d'autres groupes en province, notamment les Noirs et les membres de la Première Nation.

Nous reconnaissons l'importance de ce sujet sur l'avenir politique de nos communautés acadiennes. C'est la raison pour laquelle nous avons bien l'intention de faire une présentation à la Commission à l'automne prochain.

Présentement, les Acadiens de la Nouvelle-Écosse bénéficient d'une représentation de trois élus acadiens à l'Assemblée législative une première dans l'histoire de la province.

Dans les circonscriptions acadiennes traditionnelles, il nous est possible d'élire des nôtres pour nous représenter. Cela est extrêmement important pour notre survie.

Tenant compte des commentaires déjà faits, nous voulons que la Commission, de par la redéfinition des frontières électorales, nous permette d'élire encore des nôtres pour nous représenter à l'Assemblée législative.

En terminant, nous demandons au Comité de bien respecter les droits protégés par l'article 3 de la Charte canadienne des droits et libertés et l'interprétation de la Cour suprême du Canada face à cette question.

MR. CHAIRMAN: Merci Mme. Comeau. Any member of the committee have any questions for Mme. Comeau?

Mr. Guy LeBlanc.

HON. GUY LEBLANC: Oui. Premièrement. On veut remercier à Murielle, le Président de la Fédération des Parents d'abord pour faite la présentation. Je peut l'assurer qu'on faire tout possible et de discuté en effect les services soient disponible en français lors des audiences publiques enfin que les gens des régions Acadiens qui veulent faire des présentations et aussi pour garantie et tenir des resources disponible pour ministères soient de cas pour vous aider à votre présentation soit mis à votre disposition aussi. Votre demande s'y aille tous les régions Acadiens et les regions, lorsqu'il y a, une concentration de francophone Acadiens . . . Est-ce-que vous avez des suggestions?

Vous avez certainement indiqué que la langue devrait d'être une considération très important et je suis toutement d'accord. Est-ce-que vous avez d'autres considérations qui doivent être impliqué chez dans certaines circonscriptions histoires est très importants, et en d'autre régions lorsque les chiffres sont plus moins élevés. Est-ce-que vous avez d'autres suggestions ou quelque chose? C'est tout. Je pense à règlé à Cape Breton lorsqu'on a deux ou trois régions qui sont quant nombre assez considérable mais qui sont éloigné l'un à l'autre, qui peut être difficile de groupé.

MME. COMEAU: Je pense que peut-être quand on reviendra à l'automne on aura à ce moment discuter de cette question avec toutes les membres de notre fédération et on pourra apporter des suggestions à ce moment là.

MR. GUY LEBLANC: Est-ce que vous pensez lors des audience publique d'avoir des présentations des différents organizations dans les différents régions dans la province plûtot que . . . Est-ce que vous faites ça dans chaque région.

MME. COMEAU: Je pense que c'est ce qu'on faire certainement dans chaque région.

MR. CHAIRMAN: Ms. Alexa McDonough.

MS. ALEXA MCDONOUGH: J'avais des questions mais je veut dire que j'accepte absolutement les arguments que vous avez présenté. Je pense qu'ils semblent très raisonable et je suis absolutement d'accord.

MR. PAUL MACEWAN: Pour le Parti Liberal, je vous dire que nous sommes en agréable pour votre présentation et je veut vous remercier.

MR. CHAIRMAN: Okay. Any other comments or questions? Alors merci beaucoup, Mme. Comeau, pour votre presentation.

Mr. Guy LeBlanc.

MR. GUY LEBLANC: Est-ce-qu'il y a quelque chose peut-être de manqué. Est-ce que l'education, je rapelle parce-que certainement les objectives à parti des . . .

MS. MCDONOUGH: Le député ne parle pas assez claire pour nos visiteurs. Est-ce que vous pouvez parlez plus lentement et plus fortement. S'il vous plait?

MR. GUY LEBLANC: Je m'essaye. Merci. Je veut simplement fait le point que aussi l'education aux régions Acadiens est certainement important. Ça devrait être un point qui devrait pour la préservation des écoles Acadiens des régions Acadiens. C'est un point qui devrait être sorti et fait des recommendations. Fallu-regardez.

MME. COMEAU: C'est peut-être aussi une de notre raison d'être ici aujourd'hui en sauf la région Gatineau des circonscriptions peut-être où en faisant la revue on voudra cette question là aussi, elle évidemment entra.

MR. CHAIRMAN: Merci Madame. We will hear now from Mr. Jeremy Akerman, a former member of the Nova Scotia Legislature.

MR. JEREMY AKERMAN: Thank you, Mr. Chairman. I am here on the assumption that your committee will have a long life and will be able to conclude its work. In the event there is a dissolution, I would hope that the next General Assembly sees fit to revive the work that you have started and to complete it at that time.

I would like to commend the House for having established a committee and for having selected as its members among the most able and experienced.

MR. CHAIRMAN: Flattery will get you everywhere.

MR. AKERMAN: Before I come to the burden of my remarks, Mr. Chairman, I would like to say just a little bit about myself and to respond, in part, to some of the things I heard asserted before your committee on Thursday last when it met.

I represent nobody here but myself but I am a member of an invisible minority. I am a first generation Canadian of Protestant English stock. I am represented in the Nova Scotia Legislature by a Roman Catholic of Irish extraction and I do not feel in the least deprived because I am not represented by somebody from my own ethnic background. In fact, I am rather proud to be represented by my member of the Legislature. Indeed, I go so far as to say that it will be a great loss to the Legislature when he leaves public life, as he has indicated he will at the end of the current Assembly.

My people, as far as we can guess, probably came from somewhere in northwestern Germany. We were invaders at that time; we were either Angles or Jutes and we went to somewhere in the midlands of England, where we superseded the Romano-British, who themselves had superseded the Celts, who themselves had invaded from the Iberian

Peninsula in the second millennium before Christ, who themselves had superseded Bronze Age people who came from God knows where.

I have only been able to trace our family back with any certainty to the year 1615. We come from the County of Gloucestershire in the Cotswolds, from a place known as Upper Slaughter. Much to my son's regret, Mr. Chairman, our people, as far as we have been able to find out were, according to the earliest records, poor servants. When we did the research, I think my son was hoping we might turn out to be nobility. That was not the case.

We are a very small family; there are probably fewer than 100 Akermans in the British Isles today. From all my research, I want to say that none of my family, back to the year 1615, have had anything whatever to do with slavery. None of them came to North America and butchered the native peoples of this continent.

I say that because it is suggested by some people that for me to bitterly regret and deplore those things is not enough, that I also have to feel personal guilt and accept personal responsibility, and that I am not prepared to do. I think the relevance of those comments will become clear to you later on in my presentation.

[3:00 p.m.]

On Thursday, there were a number of assertions made to your committee which were not then challenged by the members of the committee, but I feel need some comment. It was suggested by someone, I forget whom, that Acadians were only recently represented in the Nova Scotia Legislature. Mr. Chairman, as you know, that is absolutely not the case. Acadians have been represented here and ably represented, well over 100 years. In fact, if I am not mistaken, Acadians were represented in the very earliest Assemblies which were held here. There is some suggestion from some quarters that Acadians are discriminated against by the Nova Scotia electoral system. I do not believe the evidence will support such an assertion.

We have three Acadian members in the House today, four if you count Mr. Boudreau, who is of Acadian descent, from Cheticamp. It is only by twists of fate or circumstance that there are not at least two more. The constituency which Mr. Mann now represents was previously represented by Mr. LeBrun, Mr. LeBlanc and Mr. Doucet, and so on and so forth. It is not inconceivable that in the relatively near future under different circumstances, Inverness North, would return an Acadian member. I think not only are Acadians not discriminated against by the system, but I think they have been ably represented over the years. They have been a great asset to the Legislature and, through their representatives, to the province.

We were told on Thursday that black Nova Scotians had been disenfranchised by the Nova Scotia electoral laws. Mr. Chairman, I know of no impediment to any Nova Scotian who meets the qualifications of the Elections Act to prevent them from exercising their franchise, be whatever colour they be. To make a bold assertion that they have been disenfranchised is to say that the black Nova Scotians in New Glasgow have not been represented by Jack MacIsaac. Now, Jack MacIsaac has not been one of my greatest supporters over the years and you could not say we have been the closest of buddies, but if I know anything about that man, I know that he has represented those people every bit as diligently as he has the other constituents in Pictou Centre. If you go up to the Marshall Road and ask those people, they will tell you that.

To say that they have been disenfranchised is to say that the black Nova Scotians of Whitney Pier have not been represented by Paul MacEwan. I know from my own personal knowledge over the years that such is clearly not the case. He has worked just as hard, if not harder, for those important members of his community as he has for all the others. They include, and forgive me, Paul, if I leave some out, Russians, Ukrainians, Hungarians, Czechoslovakians, Italians, Germans, Poles, Scots, Irish, English and I do not know who else. (Interruption) In fact, I do not know what the demographics are of Cape Breton Nova today, but at one time it was probably the case that the majority of the voters were members of minorities.

It was also asserted before your committee, Mr. Chairman, that the 1978 redistribution included an act of deliberate gerrymandering to prevent a black person being elected to the Nova Scotia House of Assembly. I do not believe there is one scintilla of evidence to support such an assertion. Making such assertions does not serve any cause well. Now, if the person who made that assertion is thinking of the same boundaries commission that I am, I believe I appointed a person to that commission. While I am no longer politically associated with that person, I still have the highest regard for his integrity and I do not believe that that person would have been a party to any such act. I do not believe that that can be supported by the facts.

It was stated that there were very few candidates for any of the Parties from the black community or from the native Indian community. This is unquestionably the case and it is regrettable. I think the province would be well-served by us having a far greater number of black Nova Scotians and native Indian Nova Scotians attempting to and succeeding in getting elected to this House.

A relevant question here, Mr. Chairman, is, how many seek nominations? Because if you do not get nominated you are not going to be a candidate and if you do not seek a nomination you are not going to get a nomination. I was talking only this morning to a black woman who is one of my most dearest friends in the whole world. She said, but the political Parties do not seek us out like they do you, quite apart from the fact that nobody is seeking me out. She has a point. Of course she has a point. But I do not think all the blame is to be attached to the political Parties. I happen to know a black person who was approached by two different political Parties to run in a particular constituency, would have made an excellent member had they been elected, and declined to do so. No blame attaches to that person for having decided that they had other priorities. Similarly, no blame attaches to the political Parties because that person decided not to run.

I remember many years ago trying to persuade Chief Noel Doucet to run for the New Democratic Party. I was unsuccessful. I think he is one of the finest Nova Scotians I ever met. I wish that I had been successful. I wish we could have got him elected on any ticket. He declined. He had things he wanted to do which he thought were more important and nobody could blame him for that decision, but it was not the fault of the New Democratic Party that he did not run. Perhaps the political Party should seek out more members of racial minorities, but at the same time, I would encourage the word to go out from your committee, Mr. Chairman, that they are encouraged to seek nominations for political Parties. Not to wait for somebody to come to them but to go out and seek them.

Now, Mr. Chairman, as to the composition of the commission which is to flow from your work, might I suggest to you that that commission should be larger, rather than smaller. I think the larger and more representative it can be, the better it will do its job. Obviously, you cannot get into unwieldy numbers and have absolutely dozens of people on a commission, but I would like to see it be larger, rather than smaller.

In your terms of reference, it is said that one member of that commission must be a black Nova Scotian. I do not know why one. If you have got good people to go on it I do not know why there should not be two, or more. I would like to see on that commission, too, representatives of the communities who are known as the new Canadians. For instance, we have a very flourishing Italian community in the city, Greek community, Lebanese, Polish community. I would like to see some representation from those new Canadians who bring a different kind of perspective to these matters. I would like to see a Jew on the boundaries commission. If there is any people in the history of the world that knows about persecution, knows about discrimination, it is the Jewish people. I think we would be well-served because they are known for their cool judgment and considerable sagacity.

I also feel that the Chief Electoral Officer, if not a member of the commission, should be attached to it in some way. I also feel, unlike one of the speakers who appeared before you last Thursday, the political Party should be represented on the commission, but I feel that they should have equal representation. I think they have a knowledge of practical politics which will be useful in many of the questions that the commission has to deal with.

The Supreme Court's decision has, I think, enabled your committee to grant the commission considerable latitude in its work. I suggest that we can now put to rest the bogeyman that some people were floating, that if we went to the people without a drastic reorganization of constituencies, the results would be thrown out by the courts. I think that one can be finally put to rest if, indeed, anybody believed it in the first place.

I would suggest that you ask your commission to deal with its job in two stages. The first stage, relatively speedily, and to report back at a fairly early date. That stage, it would be to deal with the glaring anomalies with respect to the representation by population question. That would be Cumberland County, the Sackville area and, possibly, to shift the boundary between the two Invernesses, a little further to the north, which has been a contentious issue for some considerable number of years, that that be the first phase of its operations. When it has done that work, to consider the province as a whole and some of the other issues which are of a more controversial and delicate nature.

When you charge the commission, Mr. Chairman, it would be my preference as a Nova Scotian that you ask it to examine and consider matters, rather than give it directives. I would not want to see the commission be in the position that a judge and jury would be in if a trial were to be held and they were told in advance what verdict they had to bring in. I think if you appoint sensible, intelligent Nova Scotians to this commission, I think they will have the good judgment to come up with some of the right decisions after they have heard the input from the people of the province. In other words, I am saying, do not bind their hands, or bind their hands as little as you can. I think they should be asked to consider the question that Harry Flemming raised here on Thursday, the question of the county unit. I believe this is important to many Nova Scotians, particularly in rural areas. There is a great sense of identity with and belonging to counties. There will be some anomalies, and Victoria is the county that is often referred to, but I think, in light of the Supreme Court decision, I think we can live with some of those anomalies, at least for a little while longer.

I would like you to ask them to consider not only the question of the relative weight of people's votes, but also the relative level of representation, by which I mean to say, it is one thing to say that everybody's vote should have the same weight and, therefore, we should have strict representation by population. In terms of the level of representation the people receive, it is very much affected by the kind of constituency in which they live. For instance, in Halifax Citadel, I believe it is possible to get to any part of the constituency from any other point in it within 10 minutes, 15 minutes at the outside. That would certainly not be true in Guysborough, Victoria or Antigonish. Therefore, the access that people have to their MLAs is, to some extent, determined by the size and the geographical nature of the constituency. I think that is a consideration that needs to be brought into the purview of the commission.

Finally, Mr. Chairman, I think you should ask the commission to consider, rather than instruct them, on the sensitive question of the deliberate creation of electoral districts on the basis of race, which is a matter, I contend, requires the most careful consideration. I say that not only because it is quite a departure from the British parliamentary electoral tradition, but for other reasons also. People elsewhere and people in this country in the future may see such actions as a form of political apartheid.

[3:15 p.m.]

You know the Europeans did many terrible things to the native Indians in North America when they came here but the worst thing they ever did was to stick them in reservations and say, you will not be part of our society. Do we really want to continue that? Do we want to start that all over again, on a different level? I am not sure I do; I am not sure all the Indians do.

Theoretically, Mr. Speaker, I realize that given the current circumstances prevailing, it is not a practical probability, but theoretically, the constituencies in which each of the Micmac reserves is now located could return a Micmac MLA to the House of Assembly. It is possible that there would be five or six Micmacs in the House of Assembly, representing not only their people but other Nova Scotians, too.

If the commission combines those reserves and gives the combined reserve area a member in the House of Assembly, it will assure them of a MLA. But it will also assure that they will never get more than one MLA. I think that is something they should consider very carefully.

The question of community interest has been raised here in other contexts. I wonder, apart from the obvious community of interest of their heritage of which they are rightly proud (Interruption) Yes, Mr. Chairman, I did not realize there was a time limit; you should have told me.

MR. CHAIRMAN: I am sorry, I apologize, Jeremy. I should have mentioned it. We have been trying to restrict people who are making presentations to a combined total of one-half hour for their presentation plus response to questions.

I apologize because I must confess, I had pointed that out on Thursday but I did not repeat it again today.

MR. AKERMAN: I was not aware of that, Mr. Chairman. Had I been aware of it, I would have governed myself accordingly.

MR. CHAIRMAN: It is my fault; I take full responsibility for it.

MR. AKERMAN: I shall try to wrap up as quickly as I can, I have only a few more points to make.

I want to ask, apart from the obvious heritage, what is the community of interest between the people who live in Nyanza and those who live in Shubenacadie? If the people of Nyanza have problems with the pot-holes in the roads in their area and their MLA is in Millbrook, do they call him in Millbrook, so he comes up and talks to the Superintendent of Highways in Baddeck? These are things that need to be considered.

There is also to be considered, Mr. Chairman, in my judgment, the question of what is known as backlash. I believe that a great deal of racial resentment and intolerance which exists in our society has come about as a reaction to things which people perceive to have been wrong and to have excluded them.

Mr. Wills came before your committee and his views were subjected to a great deal more scrutiny than any other witnesses. Now he did not strike me as a rabble-rouser or a trouble maker or a man who goes from forum to forum for the benefit of hearing the sound of his own voice. He seemed to me like a very average, hard-working, rather shy Nova Scotian, I do not know the man, I am assuming these things, who felt moved to come here because he felt a sense of disquiet.

I rather suspect he is not alone in that because I think that if I read him rightly, he and a great many other Nova Scotians feel that now is the time to diminish the compartmentalization of our citizens, not to enshrine it in Statute.

Now is the time to use everything within our power to break down racial barriers, not to create new ones. These are some of the considerations I would ask you to pass along to the commission for its very important deliberations.

In closing, may I thank you for your patience, Mr. Chairman. I am sorry I have overstayed my welcome and I wish you well in your future deliberations. Thank you very much, indeed.

MR. CHAIRMAN: Thank you. Questions? John. I would ask you to keep the questions brief, please.

HON. JOHN LEEFE: Just a comment. I am one of many who has missed the eloquent debating skills of Mr. Akerman in the House and it is really quite a pleasure to listen to him again.

MR. MACEWAN: I want to say some words along the same line; I think it has been 11 years since I have heard Mr. Akerman expressing himself on the issues of the day and he has not lost the old spark at all. He looks the same, he sounds the same and he moves in the same ways.

MR. AKERMAN: I am inspired by my audience.

MR. MACEWAN: I have always found everything he had to say interesting.

MR. CHAIRMAN: He inspired me to make a comment but I will bite my tongue.

MR. MACEWAN: He has not been saying too much during the last decade but possibly he is now going to launch himself into some new endeavour, I do not know what, but we wish him every success and I am sure we will be hearing from him again.

MR. CHAIRMAN: Alexa McDonough.

MS. MCDONOUGH: Mr. Chairman, to the extent that I can make my voice work at all, I guess I just want to make a comment that I feel the eloquence of Mr. Akerman's debating skills is well known but I also feel it ought not to be permitted to overshadow the legitimacy of some of the arguments that have been made and may yet be made, particularly by the three largest minority groups in the province, for why they feel, and I underline feel, effectively disenfranchised and a number of reasons.

I think there is a sensitivity required by this committee to understand the reasons why those particularly of the largest visible minority groups, do not always find it easy to aggressively seek nominations. I think one of the things they have been trying to say to all the political Parties is that there are reasons and they would like for them to be understood and to be the subject of dialogue between and among politicians and political Parties.

I also think it is important that while certainly the committee ought to hear the views of all Nova Scotians, that it is important that we give appropriate respect to the very clear reasons given by the Grand Council of the Micmac Nation in making an argument for the designation of a Treaty Deputy.

It was very clearly outlined in the written proposal made by the Grand Council; it was very clearly outlined in the verbal presentations I have heard by the Grand Council, that they specifically were not asking that there be a seat designated on the basis of race. I think they would even say, although it may come to semantics, that it is not even a community of interest that they are asking be given consideration but, rather, that it be out of a recognition and a respect for the treaty rights of the Micmac people, with whom there is a special relationship, the Micmac people having been the first inhabitants of this nation and were here before the rest of us were on this land.

I think there are considerations, I do not wish to delay the discussion to which we have a responsibility to give some consideration and some respect, that have already been raised and will yet be raised. I do not want to take the time of the committee to go through all of those arguments because it is not a discussion between myself and Mr. Akerman. It is not a discussion between the old ways and the new ways. It is a discussion between those who feel they, as members of those particular groups, have particular points of view they want to bring forward to this committee and I think it is important that we hear them.

MR. AKERMAN: I understand what you say; I respect your views.

MR. CHAIRMAN: One of the unfortunate things of the manner in which this committee is required to operate is that time does not permit us to have some of the discussions that we might otherwise be able to enjoy and benefit from. Unless anybody else has any questions or comments of Mr. Akerman, I will simply say Jeremy, on behalf of the committee, thank you very much for your very thought-provoking and well-expressed and well-delivered presentation. We are very pleased you were able to come and give us the benefit of your views this afternoon.

MR. AKERMAN: Thank you, Mr. Chairman, and thanks again to the members of your committee.

MR. CHAIRMAN: Now I am advised that we will be required to break at about 3:50 p.m. So with that in mind, I am now going to call upon Mr. Bagambiire and Ms. Jones to come forward, if they would please. It is now 3:26 p.m., so we have about 25 minutes for Mr. Bagambiire and Ms. Jones to make their presentation.

If we can conclude in the 25 minutes, fine; if not, we will come back and conclude this presentation and then try to move along through the others who are here this afternoon.

I must say this to those who were invited to come here this afternoon, when we scheduled this meeting we were not aware that we might be interrupted by proceedings at the other end of this building, which have to take priority.

Mr. Bagambiire, thank you, sir.

MR. DAVIES BAGAMBIIRE: Members of the Committee, ladies and gentlemen, on behalf of Ms. Lynn Jones, I apologize. She is unable to be here this afternoon but it is my great pleasure and privilege to make the presentations that will follow, both on my own behalf and on her behalf.

I should indicate right from the beginning that I am here officially on behalf of the Afro-Canadian Caucus of Nova Scotia but I also belong to many black organizations. In my own profession or career and personal right I am quite involved in black interests. I believe that even though no scientific research has been conducted among the blacks to ascertain the extent to which they concur with the comments that I will make, I am pretty certain that I speak on behalf of the majority of the blacks out there.

I want to take this opportunity, before I get into the substance of my presentation, to respond to some very astounding remarks made by the previous speaker, Mr. Jeremy Akerman, a gentleman that I have known over a long period of time by reputation and for whom I have had a great deal of respect, based on what I thought were principles of equality for which he and a Party that he led in the past stood. I must say that my opinion right now is rather confused, having listened to his response to the remarks made before this committee on Thursday of last week.

I think that Mr. Akerman's argument that the minorities in this province, particularly the blacks, have had formal representation and therefore that representation is sufficient and nothing needs to be done to make it more effective. I think that argument is flawed in the sense that formal representation, as a matter of law, has not brought the black people of this province right from before Confederation to the

Chambers of this House, as is pretty obvious. It has not given them the degree of political, let alone economic clout that every citizen of every country seeks to acquire, nor has it placed them on a footing of equality with the white Nova Scotian population.

I would counter-argue that this committee ought not to be hung up on matters of formal equality. Formal equality has been proven not to work. By formal equality, I mean representation whereby you have a representative in the House of Assembly or, indeed, in Parliament, based on the requirements of the law.

I think that the enshrinement of the Charter of Rights and Freedoms in the constitution of this country was clear evidence of the testimony to the fact that formal representation, formal guarantees of rights are not sufficient. The inclusion of the equality provisions in the Charter of Rights and Freedoms, particularly Sections 15(1) and 15(2), are clear testimony to the fact that formal equality or formal representation is not sufficient.

There is a duty, Mr. Chairman and members of the committee, on the government, on the committee to go beyond formal representation, to go beyond formal equality and take positive measures that are designed to uplift the insular minorities that are historically disadvantaged and elevate them to a level of equality. In other words, it is a form of affirmative action, not in the negative sense. It is not intended to discriminate against anyone, for that matter it is not and should not appear as a threat to the white population of Nova Scotia.

If some positive and concrete measures are recommended by this committee and are taken by the boundaries commission that would be created to equalize the political status and the clout of the blacks, indeed, the Micmacs and for that matter, the Acadians with that of the whites because what history has shown is that systemic discrimination has kept these groups of Nova Scotians constantly down and without a form of political affirmative action in the nature that has been suggested and that I endorse and that the Afro-Canadian Caucus endorses. We may as well see another hundred years come and go without real meaningful, or if you like, effective representation from these communities.

[3:30 p.m.]

Let me examine the issue beyond that. Is it that the black Nova Scotians are asking for special status? Why should black Nova Scotians request, for example, representation on the boundaries commission when the Jews or the Italians or the Polish, or for that matter, the Scots, have not asked for that. I think this is the argument that Mr. Akerman was alluding to. In other words, the black people, are we asking for special treatment? I would suggest that we are not. We simply are asking for systemic means of equalization. I would argue that that is made necessary by the history of this province and this country as a whole.

If, Mr. Chairman, one has a minute to look at the written notes that I put before the select committee, it will become clear that blacks have been an existing and continuing element of this province long before Confederation, long before this country of ours known as Canada, came into existence. Certainly by the founding of Nova Scotia there were blacks living in this province. It is documented quite clearly that Matthew DeCosta, most historians, I believe, begin with that name, was registered as a black man living at Port Royal in 1606.

In the years between 1783 and 1791, pretty close to 5,000 blacks, over one-half of them free blacks and the others slaves, immigrated to Nova Scotia as part of the Loyalists, in return, or rather pursuant to our promises for all sorts of things that included land, security and freedom if indeed they fought alongside the Loyalists and took up arms against the rebels in America.

Mr. Chairman, I believe it is documented that the percentage of blacks at that time was in the range of 10 per cent to 20 per cent of the known population of the province as it existed. I would submit that that percentage has not changed fundamentally, that in fact it has remained a constant and that the presence of the blacks, their contribution economically and socially has remained a constant factor. Unfortunately, their involvement and participation in the political process has never been a factor to any degree whatsoever.

In my brief that is before the committee, I refer to the 1789 Act, an Act for the Better Regulation of Elections as one of the cornerstones of legislative discrimination in this province. The Act stipulated, among other things, and it is referred to on Page 4, Paragraph 12 of my presentation, that for a Nova Scotian to be eligible to vote, he or she had to have an income of 40 shillings per annum in real estate. He or she had to have the house on land that he or she owned or had to be the owner of 100 acres of land that was cultivated.

Mr. Chairman, I submit that this was the beginning of deliberate legislated discrimination based on race, simple and pure. I would submit that it was followed by numerous pieces of legislation relating to the militia, relating to qualification for service in the jury, all of which, even though they have been annulled and repealed and are no longer in the Statute Books, the effect of which has continued to hold back the black people of this province, has continued to exclude us from the political process and without effective involvement in the political process, of course from the economic process.

To say the least, Mr. Chairman, the common law, judicial attitudes, executive acts, conduct, discretion, what have you, have continually, and I think that study after study vindicate my argument, that continually those processes have acted to weaken, to marginalize, to peripherize the status of black people in the political life of the province. That is the background that the committee has to consider the issues before it in terms of empowerment of not only the black population of the province but also the Micmacs and to some extent, the Acadians.

Of course, Mr. Chairman, I recognize that I am not qualified to speak for the Micmacs. They are indeed capable of articulating their own interests and have done so quite effectively and I am sure they will. But I do not think that it is far-fetched if I endorse the principle expressed by the House in the resolution by which your committee is put in place, namely that a boundaries commission to be created to find ways and mechanisms of ensuring Micmac representation in the House of Assembly of this province.

Let's face it, the Micmacs are the fascination of this province, they are the owners of this land. Micmac territory, to my understanding of the history, extended from Newfoundland to New Brunswick, covered the entire Nova Scotia. I think that we should be apologizing to the First Nations people of this province for excluding them from the political process for so long rather than trying to seek rationalizations for continuing to exclude them. I think that if your committee should heed those kinds of inward looking, if you like, rather alarmist arguments that the future of this province would really be in tremendous trouble and jeopardy.

Mr. Chairman, it is not true that affirmative action in the political process is a new concept. You only have to look at the world in a global perspective. You go to New Zealand and you find affirmative action in politics, the white New Zealanders vis-a-vis the native Maoris. Indeed New Zealand is a democracy that has not collapsed because of the affirmative action that is enshrined in the New Zealand legislation. If anything, it has been enhanced.

Mr. Chairman, you go to Zimbabwe. The British, whose traditions we take great pride in, I would say, imitating were very instrumental in institutionalizing a constitutional framework for Zimbabwe, that guaranteed special rights for the minority whites in Zimbabwe. Well, my argument to you, Mr. Chairman, and to the members of your committee through you is, what is good for the minority whites in Zimbabwe must be good for the minority blacks and the Micmacs in Nova Scotia. That may even be 10 years outside of our memory.

Let's look at South Africa, one of the contemporary global issues. The minority in South Africa of whites . . .

MR. CHAIRMAN: I do not want to cut you off but we are operating under some constraints. If you get us into the South African situation, you are inviting a discussion, I think, that will probably lead us a little bit away from where we should be focusing.

I just want to point out that I know members of the committee would like to ask you questions on both your verbal presentation and your brief. We do have to leave very shortly for a very important vote in the House, so without wanting to cut you short, I was going to ask if you could come back from South Africa to Nova Scotia and maybe wrap it up, please, and then we will have a chance to ask you some questions.

MR. BAGAMBIIRE: Mr. Chairman, I hope that is an indication that my argument for affirmative action and political process . . .

MR. CHAIRMAN: No, no, do not get me wrong. It is not criticism of your argument at all, it is just an effort to suggest to you that we should be focusing on the task that is before the committee, rather than getting into important but broader issues that we really would have to consider in another forum.

MR. BAGAMBIIRE: The message is well taken, Mr. Chairman. In summary, these are my views and the views of the people on whose behalf I speak. One, that any Boundaries Commission that your committee puts in place consider the principles that the Supreme Court of Canada three days ago enunciated in the Carter decision. Community interests, community history and a desire to promote minority representation. Mr. Chairman, the Carter decision in Saskatchewan by the Supreme Court of Canada ought not to be interpreted as saying that the momentum created previously has to be slowed down.

Secondly, I would submit that the committee under the commission to be created seriously consider an amendment to the House of Assembly Act, that to recite the presence of the Micmacs, Acadians and the blacks as a constant and continuing presence in this province, on whose behalf affirmative action steps ought to be taken to achieve true and meaningful, as opposed to sheer formal equality in the political process. Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you very much, Davies. Now, we have some time for questions, a brief time before we have to leave for the House. Are there any comments or any questions of Mr. Bagambiire? Alexa.

MS. MCDONOUGH: Well, I guess I have a question that arises out of my own feeling of disquiet about the previous presentation. It was stated, theoretically of course, that there could be any number of black, Micmac and Acadian Nova Scotians elected to the Nova Scotia Legislature without there being any changes in the current electoral boundaries or the processes. It was also stated that it was very important for the committee to be cautious about not generating any kind of backlash. I guess I would really ask Mr. Bagambiire if he would address both of those comments from the perspective of what the reality is in Nova Scotia today with respect to deeply entrenched institutionalized racist attitudes and practices that account for the fact that there appears to be very little prospect that there is no evidence of racism in even the electoral behaviour of many of the electorates.

MR. CHAIRMAN: Well, with respect Alexa, please, I appreciate the question you are asking, but it does invite a very lengthy response. I do not want to appear to be cutting things off here but I also do not think it is within our purview to get into a discussion about racism in the province. Now, by saying that, I am not denying that there has been racism. We all know that. We all know that we have to take steps to address it. But what we should be doing and focusing on is the task that is before us. I am going to ask Mr. Bagambiire when he responds to Ms. McDonough's question, to please keep it in the context of electoral boundaries reform, would you please, Davies, and in the context of this province, please.

[3:45 p.m.]

MR. BAGAMBIIRE: Mr. Chairman, before I respond to that question, did you give me the privilege of electing to respond, subsequent to the recess?

MR. CHAIRMAN: Ms. McDonough has asked you a very broad question. I have tried to narrow the focus a little bit. I got us off on the wrong foot by not pointing it out right at the outset that we were trying to restrict this to 30 minutes per presenter. There are other people here who have come from some distance.

We have to interrupt ourselves for a while. I do not know how long we will be in the House, but then we have to resume. I think the best bet is for us to break now to invite you to respond to Ms. McDonough's question and any other questions which the committee might have when we return. Then we will try to fit in as many of the other presenters as we possibly can. I want to apologize to the other presenters because we may not be able to hear everybody this afternoon. Paul.

MR. MACEWAN: Mr. Chairman, if I may, we have not been summoned out of here yet and the Moderator of the African United Baptist Association could certainly be heard, in my view. I see no pressing rush to adjourn. We have not been summoned. If

1 - 7

we hear bells ringing, that is the indication that members of the House are summoned. I think we should continue.

MR. CHAIRMAN: Well, there was a request that was put to me that we break at 3:50 p.m., that the business going on in the House would require our presence there, that we should be there at about 3:50 p.m. Now, I am in the hands of the committee, and I am not trying to cut off this discussion, except I want to keep it relevant to the points that are before the committee. Mr. Bagambiire will have a full opportunity to respond to Ms. McDonough's question.

MR. MACEWAN: Well, Mr. Chairman, my point is this, if we adjourn, we do not know when we can return. Now, that has to be faced. We do not know that and we cannot guarantee people who came here from out of town that we will be back here in half an hour or 20 minutes to hear them. They should know now that we will be gone for an indefinite period of time.

MR. CHAIRMAN: Well, again, I am in the hands of the committee. We can hear Mr. Bagambiire finish his presentation and then conclude, decide whether we should break at that point and come back. It is unfortunate that other events have overtaken the work of this committee. But, Davies, go ahead, please. I am sorry, I did not mean to cut you off and I apologize. But I do, as I say, want to keep the conversation, the discussion, as relevant as possible to the subject that we have to deal with. Go ahead, sorry.

MR. BAGAMBIIRE: Thank you, Mr. Chairman. In response to Alexa McDonough's question, I would submit that the backlash argument is an alarmist argument that really has no validity and is totally oblivious to the poor state of race relations; hopeless, racist conditions that the black people of Nova Scotia and, of course, the Micmacs and any other minority that is disadvantaged in this province live under.

Backlash is normally negative for the minority after an affirmative action program, than it is before. In other words, I would rather suffer the backlash of being the beneficiary of a step that is intended to politically disadvantage me and my people, than to be the victim of the kind of racism that goes on right now.

MR. LEEFE: I just want to say, Mr. Chairman, that I concur entirely with what Mr. Bagambiire just said. If we premised every step forward on whether or not we were afraid there would be a backlash to the innovation that we want to undertake, there would never be any innovations taken. I think it would be terribly wrong for us to premise the recommendations and the decisions that this committee will take, relative to the creation of the commission on a fear that there may be a backlash to some initiative that we may undertake.

MR. CHAIRMAN: Okay. I am sorry, Alexa, I did not mean to cut you off, but are there any other questions of Mr. Bagambiire? Okay, Davies, thank you very much. You can be assured that the committee will take your views very much into account in considering its work.

MR. BAGIMBIIRE: Thank you.

MR. CHAIRMAN: Now, I really do not think it would be fair to another person to ask them to start a presentation and then have to cut them off. We do know that the bells are likely to ring very shortly, so could . . . (Interruption) Is Carolyn Thomas here? Paul Comeau was to be next and then Carolyn Thomas, then Mr. Alapin and Mr. McDonald. That was the order. I really do not think it would be fair to Mr. Comeau to ask him to begin, then to break, and then to come back. So if everybody is agreeable, I would invite our guests at the back to go sit in the gallery. It may be a historic vote in the Legislature. You are most welcome to watch the vote and then we will resume proceedings as soon as possible after the House. Paul.

MR. PAUL COMEAU: Is this committee meeting again on another day?

MR. CHAIRMAN: Oh, yes, we have other people who will be making presentations to us, although we have enough that we might well run into the same problem again on another day. If you are agreeable, if it looks as though we cannot come back in, say, half an hour or so, then I will get in touch with you and we will have to rearrange the presentations. I regret very much that this has happened. I know it is going to cause some people some inconvenience. But the business of the House has to take priority over the work of the committee, unfortunately. (Interruption)

Ms. Thomas was scheduled and Mr. Alapin. Mr. Alapin is here. Why don't we just play it by ear for half an hour or so? Is that okay by you, Paul? We can schedule you for another day. If you would prefer that, that can easily be done. Okay, Mr. Alapin. He is not here, is he? Yes, there he is. Okay. Peter, do you mind waiting then and seeing what happens in the House and sticking around? Sure, okay, great. Well, we will break now then and we will return as soon as possible.

[3:53 p.m.]

[4:55 p.m.]

MR. CHAIRMAN: I think we should get underway. Mr. Alapin has been very patient and Ms. McDonough is not here, unfortunately. Peter, I am afraid you are going to have to make your presentation in her absence. She is an avid reader of the minutes of proceedings of committees, so I am sure she will benefit from reading your presentation, rather than hearing it in person.

So without further adieu, I want to welcome Mr. Peter Alapin to the committee. Peter, you are well aware of the mandate of the committee. We welcome you and look forward to hearing your views.

MR. PETER ALAPIN: Thank you and good afternoon. Before I start my submission, I want to do two short comments about Mr. Akerman's submission. I happen to be half Polish and half Jewish, it depends on which religion you take; in the Jewish religion the person is like a mother, in the Catholic religion it is like a father; I do not know which one I am but I would have to comment that if I would be invited to any body as a Jew or as a Pole, I would refuse to serve because I would consider that as an insult.

The simple fact is that Canadians like me are Canadians and want to be considered Canadians and not Jewish, Polish or whatever.

The second comment about Mr. Akerman's thing is I would say correction, he suggests that the size of the riding has something to do with representation, physical size. I suggest that in today's times of computers, mass media, television and whatever, the size becomes totally irrelevant because electoral boundaries have very little to do with the physical size of our knowledge, of our views and so forth.

Moving to my submission, this is the submission of a private citizen who immigrated to this country 22 years ago and became a Nova Scotian, Canadian citizen, 17 years ago. This makes me a Canadian and Nova Scotian by choice, one of those Canadians who is neither an aboriginal person nor a member of two founding nations.

It is worth noting that neither the Acadian people, who have been here more than 350 years nor our black citizens who have lived in Nova Scotia for over 200 years, are usually considered as members of the two founding nations.

Having said that, I want to address the question of special ridings. Today the population of Nova Scotia is mainly of British origin but, as in Canada as a whole, the proportion of people of British origin is shrinking and the proportion of people of other than British origin is steadily increasing.

In Canada as a whole, this so-called multicultural population now constitutes more than one-third of the citizenry. The importance of this fact is that as time passes, our population will be less and less homogeneous. In the face of this reality, I suggest that the current strong suggestions to create Micmac people's riding, black citizens' ridings and Acadian ridings are wrong and very dangerous. I would suggest that they represent simply that what is called today, political correctness, but nothing beyond that.

It is my strong belief that all citizens in the province should have equal representation in the Legislature. This means that interests of Acadians, blacks and aboriginal people, as well as interests of the new people settling in the province, including a vibrant Buddhist community, an increasing number of immigrants from Hong Kong or my native Poland, et cetera, should be represented.

The creation of ridings designated by origin will lead to the creation of a system of different ghettos. This will lead to escalation of racial and religious disharmonies in our friendly, peaceful Nova Scotia. In simple terms, in our mobile society, people of a given origin, language or religion, will start to move to certain parts of the cities, in order to elect first, its own member to a city or county local government, and then to the Legislature.

In this context, I suggest that the terms of reference for the provincial boundaries commission call for a study of the religious, linguistic, colour of skin and country of origin demographies of such cities as Los Angeles, Toronto, New York and Miami. I am sure that the eventual lessons from those places, full of people living in ghettos, will be helpful.

[5:00 p.m.]

Part two of my submission deals with the counties. My MA Degree is in Political Economy. As an economist, I can tell you not only that 48 per cent of Nova Scotians live in the three cities of Halifax, Dartmouth and Sydney, but also that urbanization of society all around the world is not slowing down. And inexorably, in Nova Scotia urbanization remains an ongoing phenomenon. Already today, over 50 per cent of Nova

Scotians live and work within a 100 kilometre radius of metro and most of them within one county.

The population growth can be observed not only around metro, but also in a circle going from Bridgewater to Wolfville and Truro. This demographic reality is connected strongly to the economic reality. The natural resources usually geographically dispersed are losing importance to services and technological economic sectors, which are usually geographically concentrated around a few centres.

The consequence of this ongoing economic phenomenon for the electoral boundaries is very important. It is already practically impossible in Nova Scotia to provide a separate MLA representation from every county without creating gross harm to the principle of democratic equality for those living in the greater metro area.

We all read in the press last week the decision of the Supreme Court of Canada which, in essence, announced that it is legal, under the existing Charter of Rights and Freedoms, to maintain serious inequity in the weight of Canadian citizens' votes. For many people this majority judgment is surprising and disturbing.

I would like to suggest that Canadians should correct the Charter of Rights and Freedoms, to make illegal a system in which a vote of one citizen can be 50 per cent or 60 per cent more important than the vote of another citizen. I am sure that many Nova Scotians agree with me and certainly do not want to see this sort of discrepancy in this province.

The real unfortunate, and perhaps unintended, net result of the Supreme Court of Canada decision, is an invitation for the politician to gerrymander electoral boundaries. In order to avoid even the possibility of accusations regarding gerrymandering in Nova Scotia, I suggest that the provincial boundaries commission on electoral redistribution be composed of three or five distinguished judges or civic leaders from other provinces.

The third part deals with economics and politics. Regardless of which political Party governs in Nova Scotia, we hear accusations that paving is done only in the government held ridings; new industries are located only in government held ridings; bail-outs of failing company X or Y is done because this is the riding of Minister Z; a new school or a new hospital or other government funded institutions are created in a given riding because this is a payback for voting for the government; job creation initiatives happen only in ridings which voted for the government side; et cetera.

I am sure that at least some of those accusations are correct. The public now seems to have a very negative attitude towards politicians and many people consider politicians to be corrupt individuals who are purchasing votes with the taxpayers' own money.

It is my belief that at least some of the reasons for those opinions are beyond this or another individual MLA's behaviour. In reality, our system of elections almost obliges the MLA to try to optimize the well-being of the individual riding he or she represents, instead of the well-being of the province itself. This leads, by itself, to significant wastefulness of taxpayers' money, construction of highways leading to nowhere, small, totally unused airstrips, many underutilized facilities, et cetera.

In simple economic terms, optimization of the economy of a single, small sized riding, does not create optimization of the Nova Scotia economy. On the contrary, it weakens the provincial economy as a whole.

Even if we were able to develop each riding to its absolute optimal economic potential, the sum of the economies of those optimally developed small, single ridings would be lower than the optimally developed economy of the whole Province of Nova Scotia. Our electoral system leads MLAs to work not toward optimization of the well-being of the province and all its citizens but towards making his or her best for one's own small constituency.

I suggest that in view of the serious financial situation this province is facing currently and in the years to come, Nova Scotians should attempt to reorganize the provincial system toward the best possible use of our scarce financial resources.

Therefore, in my opinion, the electoral system should direct and motivate each and every MLA to work toward the well-being of the whole province and not toward the current first priority, the well-being of his or her own riding.

The next portion deals with proportional representation. Our current system of electing MLAs in individual small ridings is based on the principle winner-takes-all. We all know what this system created in New Brunswick; 42 per cent to 43 per cent of the Liberal votes elected a 100 per cent Liberal Legislative Assembly. For me, and I am sure for many other Nova Scotians, this development means that something is profoundly wrong with the system, since it does not provide effective representation for over 55 per cent of the population.

As a recommendation for the terms of reference for the commission, I suggest careful examination of other electoral systems than the system currently used in Nova Scotia. There have to be good reasons why a riding system like ours was abandoned in most countries of continental Europe decades ago.

The Province of Nova Scotia was the first British colony to receive responsible government in 1848. Even before that, Nova Scotia was the first part of Canada to have an Assembly, since 1758, elected by the people, despite the fact that the power was held by the governor chosen in London. Nova Scotia was one of Canada's original four provinces. In this sense, Nova Scotia and Nova Scotians led the political development in this country.

I suggest that we can and we should continue our leadership in Canadian political development by changing our existing, ineffective electoral system and its inherent problems. Our modern times, dominated by fast computers and other communications systems, require a modern electoral system.

In my opinion, a proportional system in which seats in the Legislature are divided proportionally to the percentage of votes obtained by the given political Party, constitutes such a modern system. Of course we would have to establish rules eliminating representation supported only by a very small group of voters, i.e., below 5 per cent or so, in order to protect the stability of the elected governments.

Under such a system, now commonly in use in all parts of continental Europe, including its most prosperous and stable countries, each political Party presents its program and its list of candidates during the electoral campaign. Each Party collects its own funds as a Party, and not individually. Each Party is and has to be responsible for its members' behaviour and carries the consequences of inappropriate members' behaviour.

I suggest that under the proportional system of election, our native people, our black citizens, Acadian population and each and every member of our society would receive better representation than they now have and better than they will have in some new version of a winner-takes-all riding system. Each and every vote would be equal; each and every citizen would count. Each and every political Party would try to help the forgotten Micmac people, support economic and social development of our black population and take care of the Acadian language and the total cultural heritage of Nova Scotians of different origins.

In effect, groups of society that are not well represented today would receive much better representation than under an artificial system of electing their own members. In practical terms, each political Party would try to have members of minorities on its slate of candidates.

It is my conviction that the proportional electoral system could be much more effective in liquidating a patronage system and would take better care of the development of the Nova Scotia economic and technological potentials than the existing system does.

In this context, I strongly suggest that the terms of reference for the electoral boundaries commission call for examination of possibilities to create one very large riding, the total Province of Nova Scotia. Thank you.

MR. CHAIRMAN: Thank you, Mr. Alapin. A very interesting presentation and certainly one that suggests a total departure from the present system under which the province is governed. Just one quick question, back on Page 2 of your presentation in the second last paragraph, you talk about the Supreme Court of Canada decision being an invitation for the politicians to gerrymander electoral boundaries. Then you go on in the next paragraph to talk about the type of commission you would like to see set up here.

Is it not fair to say that the process that we are following here in Nova Scotia, by asking this committee to make recommendations respecting the setting up of an independent commission, should go a long way toward alleviating any concern about the gerrymandering of boundaries or do you think that even this mechanism that has been put in place is an invitation to gerrymandering?

MR. ALAPIN: I think this is an invitation. The simple reality is that when you have Inverness County and you have Victoria County and you have metro, you cannot create your ridings with the value of the vote just because the numbers cannot do it but I am concerned even more than the existing situation. What is going to happen 10 years from now? I can assure you that Halifax is going to have another 40,000 or 50,000 people and Victoria is going to have another 1,000 or 2,000 people less. The system in which we are is an economic system and those are economic rules which are governing the movement of people.

An unfortunate situation is that the resources stop to be important. Our voluntary planning can talk about resources, whatever they want, but the fact of life is that in Nova Scotia we have very few resources, therefore our economy has to be built on people and our only resource which we have, and very good one, are the people. Those things that last are based on people, all over the world in the big centres, as we are going to have urbanization. That is the reality which no one of us can affect otherwise.

MR. CHAIRMAN: Thank you, any other questions or comments about Mr. Alapin's presentation? Alexa.

MS. MCDONOUGH: I found your presentation very interesting. I do not want to dwell on this. I personally think that your interpretation of the "special ridings" proposal is not entirely consistent with either the specifics or the inspiration behind some of the proposals that have been made affecting the native, black and Acadian communities. I think in each case you are dealing with quite different phenomena and they can be very much supported within the context of the same Charter of Rights and Freedoms that you cite as the authority for the exclusive provision of one person, one vote.

But I do not want to get bogged down on that because I really think that the most interesting part of your presentation is in the proportional representation aspect. I suppose I should declare my own self-interest when I say this, that you can understand that it has a certain appeal or allure that during the three years I sat alone in the Legislature as the only New Democrat, proportional representation would, in fact, put 10 New Democrats in the House in that election if we had an entirely proportional representation situation.

My question is whether you know enough about the evolution of proportional representation to know whether there have been instances in which a given province or a state within an otherwise rep. by pop. nation have lead the way with proportional representation and whether you have examined the issue closely enough to have a clear sense of whether there are any constitutional or illegal constraints on moving in that direction as a separate province if the rest of the country is not moving in that direction at all?

MR. ALAPIN: Well I am not a constitutional expert but I do not think that the Canadian Constitution precludes provinces to go toward their own system of election. I do not think that there can be a federal system one way and a provincial system another way.

[5:15 p.m.]

I can tell you that in Polish history we had about 120 years ago the system of boundaries. What happened was, the Jews were living in one ghetto, Ukrainians in another, Gypsies in another, Latvians in another. At that time not one of those minorities were represented in the Polish Parliament.

Then, 120 years ago, we had an intelligent king who travelled around Europe a lot and he changed that to proportional. Suddenly, in the Polish Parliament, even which was dominated before the war by neo-Fascists, I would say, there were Jews and suddenly there were Ukrainians.

What happened was the Opposition Parties, trying to get the votes, put on the slate those people very high and they were elected. I would also suggest another story; you know I am very much for the Micmac people and any aboriginal people. But I suggest to you that in Halifax metro, there are also living aboriginal people who do not live on reserves, who would also like to be represented. I also suggest that the black people do not live only in Preston; they are also living on Gottingen Street and they would like to be represented.

As this kind of creating or cutting around certain things in order to make it easier to elect a black person or an aboriginal person, is going to backfire. That is what I am saying. I am saying from the perspective of a person who happened to be smuggled out from a ghetto, I do not want to see ghettos.

MR. CHAIRMAN: Any other questions for Mr. Alapin?

Okay, in that case, Mr. Paul MacEwan.

MR. MACEWAN: Thank you. Just by way of general observation, I am familiar with much of the material that he covered. I know that this notion of proportional representation has been tried in many European countries. It is, however, not the British system.

I could say a great deal about the concept. I know it is a great thing for minority Parties because it ensures that they get a certain number of seats, even if they cannot elect anybody in a constituency system. But I, personally, am not persuaded that it tends to produce stable, majority government. If you see what is going on down the hall, I think you can see some of the consequences of the lack of that.

I think the province is better served if the electoral system is so constructed that the likelihood is the greatest of one Party or another electing the majority of members, so they can govern and do not have to be doing some sort of a tightrope balancing act from day to day.

MR. ALAPIN: Well, I would suggest to you the European system in countries like Germany, France and Italy . . .

MR. MACEWAN: Those are all the countries that I am thinking of. I do not want to bring up any painful instances in German history in the 20th Century but I think if you look at what happened in that country in the years from 1929 to 1933, you will see one of the consequences of a proportional voting system. If they had had a system of first past the post, that never would have happened; it could not have.

MR. ALAPIN: I want to tell you that in the Soviet Union they did not have a proportional system, they have a boundary system by ridings. There, someone called Stalin, murdered more people than Hitler. I do not think that the appearance of Hitlers or Stalins is connected to the electoral system whatsoever.

I want to suggest to you that the best governments in Europe are those which were created by minority, where you have alliances of two or three Parties, then the government is reflecting the average Joe Blow on the street. A proportional system is very good for that because you do not have 100 Parties, you have three or four and yes, you have some alliances from time to time, when a majority is not obtained. But these alliances are very healthy because democracy is not majority rule, democracy is the majority rule, taking into consideration and accommodating minorities.

MR. MACEWAN: That is not the Canadian system.

MR. CHAIRMAN: There are arguments on both sides of this question; those of us who have been in and around politics for some time are familiar with the arguments on both sides.

MR. ALAPIN: My suggestion, if I may say, is that the commission look into those issues. They have to make the decision and suggest to the House, not me. I am saying that if terms of references are formulated having those broad issues in mind, in the long term, then the commission can come with intelligent answers. If, on another side, the terms of reference are very narrow, any commission can just answer what is asked. You know, that is like with computers. Garbage in, garbage out.

MR. CHAIRMAN: Thank you very much, Mr. Alapin.

MR. ALAPIN: Thank you.

MR. CHAIRMAN: You have certainly given us a lot of food for thought here and we appreciate your coming forward. Thanks again and our apologies for having kept you waiting.

Now, our final presenter for today is Mr. Ronald McDonald. Mr. McDonald is a private citizen who has an interest in speaking to the committee. We are pleased to welcome him. Mr. McDonald, the floor is yours.

MR. RONALD MCDONALD: Thank you very much, Mr. Chairman. Like Ms. McDonough, I happened to have lost my voice over the weekend. At any rate, to introduce myself, I am Ron McDonald. I have had two careers in my lifetime, as a member of the Canadian Armed Forces, at least enough years so they retired me with grace, and then in the business world, in the credit field, the finance field. I listened closely to all of the speakers and I became interested in this particular committee because I wandered in out of the cold last Thursday afternoon, I believe.

Everybody seems to believe that we should sit here and speak on our own ethical background. I did not think that that was the mandate of the committee. If that was the case, then I would be only too quick to say that maybe the Canadian Armed Forces should come, they represent quite a portion of the public here. The system of representation we have in our Legislature in Nova Scotia has been in force a long time and it is doing a good job, and I would suggest, with small changes, we leave it that way.

Now, I will get into the meat of my discussion. As I say, I became interested in this particular committee because some of the points made by previous speakers made me think. Then I started asking questions. There are people in this room that I asked questions of. This weekend in Halifax was a great time to talk to federal and provincial members. There was quite a group of them here. One thing kept coming up. When you talk to the federals, they say, leave it to the federal people. When you are talking to the provincial people, they are either right in the middle, or say, let's look at it. I formed my own opinion. I will admit that I changed my opinion since last Thursday.

The French Acadian called Nova Scotia De L'Acadia et Isle Royale, which was Nova Scotia and Cape Breton. The Scots, of course, called it Nova Scotia, which is New Scotland, and Cape Breton. The Micmac, who were here many years before that, simply called it Mikmakik. Mr. Akerman mentioned the fact that he was not quite sure just how many years ago his people came to Nova Scotia, but I can guarantee him, whenever it was, that my people were the pilots that took his ship into the wharf and my people were the stevedores that helped unload it. The Micmac watched, I would imagine, with interest and amusement, the many little games the white man played with his land. Of course, we have a magazine in Cape Breton, the Cape Breton Magazine, which deals with the early Acadian history and the Micmac history quite accurately.

For your information, and I would, Mr. Chairman, make some mild quotes from a brief presented by the Spiritual Leader of the Micmac on the weekend, where he indicated that for thousands of years the Micmac were part of this province and the boundaries were, I think, New Brunswick, Nova Scotia, Cape Breton and parts of Newfoundland, which they shared with the Beothuks who were another tribe of Indians who are now extinct. In 1745, there was around 15,000 Micmacs in residence in Nova Scotia. By 1842, that number had decreased to 1,646. Now, the reasons for the decrease were disease, there were bounties, I understand, on Indian scalps in those days, one sickness that took great numbers, of course, was the white man's sickness, smallpox.

In 1991, they now have, if I read the numbers correctly from this, somewhere in the neighbourhood of 8,830 registered members of the Micmac community. The reason for the increase, according to members of that community, would be the fact that they are today better educated, they have better health practices and they are using these health practices.

I went into the Micmac Native Friendship Centre on Gottingen Street on Friday morning and while I was not quite prepared to see signal drums instead of telephones, I was very much surprised when I was taken into the back and shown banks of computers. These people have their history, they have their likes and dislikes, they have their genetic history all on computer. This, of course, I would imagine was the result of many hours of work. It would be interesting to note that the white man, along with what he did with the Indians and their property, also, way back in those days, savage meant something different, something unusual, and Webster and his educators now call it, somebody totally without normal control. There was an early President of the United States prior to the Civil War who had something to do with the Indian community, who called them, not just savages, but noble savages.

The Micmac in our community have continued to prosper. They are slowly but surely evolving into a force, into a community, to be reckoned with. The particular resolution, Resolution No. 1681, which we are dealing with today, I call your attention to Section (e)(i), "A House composed of 52 members plus one additional member who would be representative of the Micmac people in Nova Scotia;". It is obvious from what I have been saying to this point that I am 100 per cent in favour of that. There are problems that come to mind almost immediately with having a Micmac member there by simply letting the Micmac community use our system, incidentally, of all three political Parties being represented, the one with the most votes who would be the one who would represent the Micmac people, regardless if that is NDP, PC or Liberal.

Mr. Paul mentioned the fact that only those living on the reservations should have a vote. I would say that Mr. Paul now was starting to think like a white man because as far as I am concerned, if you are Micmac, then that person should represent you in the Micmac community. The Micmac indicate, and I read now from Mr. Noel R. Knockwood, who is the Spiritual Leader and the Captain of the Grand Council. For thousands of years, we were here. Before the Norsemen came, we were here. Before the French or English arrived, we were here. Before the Europeans had established their governments, we were here. We will always be here, according to the will of our Creator and the Great Spirit.

Now, he does go on here to point out the different treaties and the different areas where the Micmac slowly but surely lost control of their particular political situation, shall we say, or cultural situation. Articles of peace and friendship, 1763, the Royal Proclamation between the French and the English for the possession of Acadia, and where the Micmac was simply to be a bystander, just sit back and let's see who is going to fight over our land. Points in this particular brief which, mind you, the reason why he gave me this is because a lot of the questions I had asked him that Friday morning in his office were handled neatly in this brief.

Then in 1941-42, a policy of centralization was introduced by the Indian Affairs branch. We had a summer camp in our parish which was established in 1939. We had to ask permission of the government to put up buildings, et cetera, on that particular section. Believe it or not, that particular section with the Act of 1941-42 was totally surrounded then by territory which was given to the reservation of Eskasoni. I was introduced to the Micmac people at that time. Youngsters have a habit of standing back and watching one another until they slowly meet and start playing, and they taught us the game of Indian handball. I could not see outside of their colour that they were any different in their approach to us and I learned a lot from these people.

[5:30 p.m.]

If you go on with the many treaties, the 1752 treaty itself, as he says, was contemplated not as a land sale, but a permanent relationship of cooperation and good neighbourliness between the Micmac and, of course, the Europeans who settled this area. He covers pretty well everything. There are some barbs in here. Then he ended up, if I may, and in conclusion, with a declaration, as he called it, of the First Nations. He indicated and stipulated they are still original peoples of this land. The Creator and their chiefs gave them the laws that govern all of their relationships and to live in harmony with nature and mankind. The laws set by their ancestors were defined, all of the rights and responsibilities of the tribes as a nation. The right to maintain their freedom, their language and their traditions from time immemorial.

He continued, that they wish to continue to exercise the rights and to fulfil the responsibilities and the obligations given by the Creator of the land upon which we were placed. The rights and responsibilities given to us by the Creator cannot be altered or taken away by any other nation. We are asking the Micmac today, with your resolution, to join our politics here in Nova Scotia to give them a better representation. Personally, as a result of speaking to these people, I say, 100 per cent, yes, that is a move in the right direction. Again, I caution that there are pitfalls but, once again, nothing is perfect nor set in stone.

The Micmac, I have found, are an educated, very informed group of people. No matter which one you talk to, you can bring up almost any subject, especially dealing with their heritage, and they can give you a very clear answer. I say, yes, they are ready to govern, and ready to govern themselves. I thank you, Mr. Chairman, for the time.

MR. CHAIRMAN: Thank you, Mr. McDonald. You may be interested to know that Mr. Noel Knockwood will be appearing before the committee at our next public hearing, so we will be able to hear directly from him. We are looking forward to that. Well, I think the thrust of your presentation is very clear and straightforward. Are there any questions that any member of the committee would like to ask Mr. McDonald? In that case, we want to thank you very kindly and we appreciate your coming forward and letting us have the benefits of your views. Thank you, Mr. McDonald.

MR. MCDONALD: Thank you.

MR. CHAIRMAN: Now, before we conclude, there are a number of items of business that we have to deal with. First of all, all members of the committee will have received the letter from our legal advisors, which has been prepared in the light of the Attorney General of Saskatchewan and Carter decision. I would ask you to take a look at that, if you would, during the next day or so, if you have a few spare moments.

Now, we have the following people who have indicated they want to appear. Mr. Paul Comeau, who was here but was not able to get on this afternoon; Mr. Noel Knockwood; we also have Mr. Alan Knockwood of the Micmac Native Learning Centre; we have Mr. Anthony Weagle from Queens County, who is a private citizen and wishes to make a presentation to the committee; Mr. Dwight Dorey of the Native Council of Nova Scotia; and, I believe, Carolyn Thomas, who was supposed to be here as well this afternoon but who, for personal reasons was not able to come, will likely want to appear at a later date and make her presentation. So we have five definites and one probable. I think we should plan to hear from these people as soon as possible.

Now, we have some practical difficulties. We are supposed to make our presentation back to the House by Friday of this week. I suspect somehow that we will not meet that deadline but I think we should still strive to complete our work and report back just as quickly as we possibly can.

This room, the Red Chamber, is not available Thursday or Friday because of meetings of the Law Amendments Committee but we have been getting along reasonably well with Tuesday and Thursday afternoon public hearings. If the committee is agreeable, I am going to propose that we try to finalize our public hearings this Thursday afternoon and suggest that we use one of the committee rooms across the street, in the Dennis Building. We would still be within the call of the Whip. We could be summonsed from there quickly, should there be a vote in the House and our presence required over here.

If that is agreeable to the committee, what I would ask is that we direct Mrs. Kelly to contact all these people and ask them to be here for their presentations on Thursday afternoon. Does that suggestion meet with the approval of the committee?

MR. MACEWAN: Fine.

MR. CHAIRMAN: Alexa, yes.

MS. MCDONOUGH: That is fine with me. It is my understanding that Noel Knockwood is at the Assembly of First Nations meetings that are taking place now, due back on Thursday, and I am not sure whether that is early in the day or late in the day.

MR. CHAIRMAN: Okay. I am glad you raised that because I think Dwight Dorey is in that same position. So we may have to schedule Mr. Knockwood and Mr. Dorey for a date other than Thursday, or possibly late in the afternoon on Thursday. I will have Mrs. Kelly try to find out just what the situation is and when Mr. Knockwood and Mr. Dorey will be back and if it is possible for them to come and appear on Thursday. I would like to finish the public part of our proceedings Thursday afternoon and then we can get down to finalizing our recommendations during the early part of next week.

Is that agreeable then? If we have to hear from Mr. Knockwood and Mr. Dorey at a later time, we will set that up and do it, again, early next week and then proceed from there.

MR. MACEWAN: I am fully in agreement with what you have said but there are several practical questions that I think we are going to have to look at. Since we are having a little business session here of our own now, I would just as soon at least mention them to you.

As I understand it, we have to come in with specific names of persons to serve as electoral boundaries commissioners?

MR. CHAIRMAN: We at least have to come up with designations of people who will be named by a process that will be definite, yes.

MR. MACEWAN: That, to me, implies that we would have to confirm their availability to serve. I mean if I were to just take a name out of the hat, Harry Flemming, who I think would make a good electoral boundaries commissioner but I do not think that the man would be available, I do not think that this committee would be empowered to designate him without contacting him first to see if he would be able to serve, . . .

MR. CHAIRMAN: That is true.

MR. MACEWAN: . . . and so forth down through the list of possible candidates. We would have to check them out before we went recommending any of them.

Even if you were to propose a formula that would involve, say, the Chief Justice of the Nova Scotia Supreme Court Trial Division or something like that, we would have to confirm the availability of that person, I should think. That is one practical concern I have.

Terms of reference, we can haggle over them when the time comes, I am not going to get into that now. But I still say that because we have been asked to recommend grounds for setting up a native seat, I would like to have some clear idea of just how that would work. We could use the New Zealand formula, which Ron Russell is eminently familiar with, for the four Maori seats in New Zealand.

There are two islands there and they are each cut in half. You have North Island, north; North Island, south; South Island, north and South Island, south. Every registered

Maori in those four constituencies gets to vote on this special constituency and elect four Maori members to the New Zealand Parliament.

I do not know if that structure is applicable here, if that is what the Micmac people themselves want. I would like to be satisfied, before we go reporting back to the House, that we have adequately researched that question.

I am not saying this to try to be obstructionist but just to try to be sensible. We have heard from one Micmac representative so far. I am not prepared, on the strength of that, to lend my name to a report that would indicate that those are the wishes of the Micmac people of Nova Scotia.

MR. CHAIRMAN: Okay, I neglected something; I neglected to mention that Mr. Dan Christmas is also interested in appearing before the committee. So we do have four more Micmac people to hear from. I think we might be able to get a better idea, after having heard from them, as to just how to deal with the last point you have raised, Paul.

MR. MACEWAN: I note that our legal counsel, in their most recent memo, which was just circulated today, that we are treading new ground, I believe, is the nice way they put it, very diplomatic. We are treading new ground in this business of special constitutional difficulties respecting a native seat. The problem in implementing a native seat will require special attention; we are in novel territory. (Interruption)

MR. CHAIRMAN: It is true. Well, it is not an easy point to deal with and I do think that we will benefit from the input of Mr. Knockwood and Mr. Dorey and Mr. Christmas.

MS. MCDONOUGH: I believe that among those contacted about the hearings, one was the Grand Council. The original proposal that was quite widely circulated for the concept of a Treaty Deputy in the House of Assembly originated with the Grand Council. I am wondering if it is not going to be possible for somebody from the Grand Council to appear before the committee, whether it might be possible to circulate from them the proposal that they have brought forward publicly because it is certainly clear that there are various interpretations and, I would suggest, in some instances misinterpretations of what that proposal was in some of the comments made by various people who have appeared.

Not that there is anything carved in stone about the proposal but it seems to me we ought to at least make some extra efforts to either meet with them or have an opportunity to read that proposal.

MR. CHAIRMAN: As I recall, that group was on the list of people whom you suggested we write. We have had no response from them directly but . . .

MS. MCDONOUGH: One possibility may be that the Grand Chief is very unwell, as I am sure people are aware, and . . .

MR. CHAIRMAN: Chief Donald Marshall is not in very good health and that may be a problem. However, Dan Christmas is very involved with the Grand Council, I believe and he is with the Union of Nova Scotia Indians. (Interruption) Yes, I know, I have to try to keep the various organizations straight in my own mind.

MS. MCDONOUGH: I think he was very much involved in co-sponsoring the public forum where they brought forward the Grand Council proposal for discussion in conjunction with the University College of Cape Breton Human Rights Program.

MR. CHAIRMAN: How would it be if I make an effort to find out if the Grand Council does want to appear before us and, if so, we can schedule them in. Okay?

MS. MCDONOUGH: The illness of the Grand Chief and the fact that the main Micmac leadership would have gone to the Assembly of First Nations meetings, in some cases as long as a week ago, because of lead-up meetings of one kind or another, just may mean that there was no effective communication, not for anybody's fault but I think it would not hurt us to take extraordinary measures.

MR. CHAIRMAN: Well, I will certainly look into that and see what we can find out.

Mr. Guy LeBlanc.

MR. GUY LEBLANC: On a point that our legal people brought to us, there was the question of who can decide on behalf of the natives and the answer was there is not a particular legal problem. I guess the question, for the benefit of the members, that should be answered is, under the Indian Act, federally, who is recognized as a native person? I think that has a bearing on some of the discussions that will be going on later on. That should be clarified.

MR. CHAIRMAN: There are a number of issues that we have to hear about before we can come to any final conclusion.

MR. LEEFE: As interested as we are in them, they certainly are not ours to take.

MR. CHAIRMAN: No, that is true. The commission is going to have to wrestle more with these problems and situations.

Okay, are we agreed, then, 2:30 p.m. on Thursday in the Dennis Building and we will have as many as these people possible there. If we have to reschedule, then we will do that at that time. Okay.

[The committee adjourned at 5:45 p.m.]

HANSARD

NOVA SCOTIA HOUSE OF ASSEMBLY

COMMITTEE
ON
ELECTORAL
BOUNDARIES

Thur., June 13, 1991

COMMITTEE ROOM 1

Printed and Published by Nova Scotia Hansard Reporting Services
(Editor - Rodney Caley)

ELECTORAL BOUNDARIES COMMITTEE

Mr. Arthur Donahoe (Chairman)

Mr. Jack MacIsaac

Hon. Guy LeBlanc

Hon. John Leefe

Mr. Ross Bragg

Mr. Paul MacEwan

Ms. Alexa McDonough

In Attendance:

Mrs. Joan Kelly
Legislative Committees Clerk

WITNESSES

M. Paul Comeau, La Fédération Acadienne de la Nouvelle-Écosse

Mr. Noel Knockwood, Spiritual Leader
and Captain of the Grand Council of the Micmac Nation

Mr. Alan Knockwood, Private Citizen

Mr. Dwight A. Dorey, President, Native Council of Nova Scotia

MR. ARTHUR DONAHOE (Chairman): Ladies and gentlemen, perhaps we could call the meeting to order and although not all members of the committee are here, we are going to proceed, we do have a quorum. A number of people are here and some have come from a distance to make presentations to the committee this afternoon, so we will proceed.

Some members of the committee will be joining us shortly and one member of the committee is, at the moment, making a speech in the House and will join us at the conclusion of her remarks.

This afternoon we have a number of people and I am going to call on them to come forward. First of all, I am going to call on M. Paul Comeau, de la Fédération Acadienne de la Nouvelle-Écosse. His presentation was to have been made a couple of days ago but, due to circumstances beyond his control and ours, it had to be delayed.

So Paul, we are pleased to welcome you now and if you would come forward and take a seat by one of the microphones there, we look forward to your presentation. You are on.

M. PAUL COMEAU: Thank you. Bonjour. I must say that on Tuesday I was pleasantly impressed by this committee's bilingual capabilities. I found it most encouraging for our community to see a committee of the Legislature capable of working in the other official language and we appreciate that very much.

J'ai circulé autour la table des documents dans les deux langues officielles. Donc si vous voulez posé des questions dans une au l'autre des langues, pas de problème, les documents sont là.

For the sake of maybe speeding up things this afternoon, because I realize there is a backlog of presentations, I will proceed in my second language. We find that the establishment of a commission to review the provincial boundaries is of extreme importance to the Acadian population of Nova Scotia. Not that we have been absent from the political process over the years, I think it is well recognized that we have been very fortunate in having Acadians in the House of Assembly from southwestern Nova Scotia, from Cape Breton, from central Nova Scotia, from the Antigonish area, all over. So I think we have been very much a part of the process.

I guess what we want to insist upon today is to make sure that our presence is still very much there and we want to secure our political presence within the Legislature. We do welcome this opportunity and we are happy to appear before you.

Before we get into the specifics on the points that we were to address with the committee, I have for the committee's information included statistics on the French speaking Acadian population of Nova Scotia and how this population is spread out.

MR. CHAIRMAN: I apologize, but I should indicate, because I neglected to do this the other day and it caused some difficulties, that because of time constraints, I think you are aware, we are asking the presenters to restrict themselves to a maximum of one-half hour for both their presentation and to respond to comments and questions from members of the committee. So I apologize, I should have made that announcement before you began.

MR. COMEAU: I was quite aware of that and I can assure you I will not take one-half hour.

So the information is there for the committee members and I will not go through that exercise. I would like to comment, however, on the present situation, in terms of representation in the House of Assembly. We have presently in Cabinet three Acadians representing the provincial ridings of Argyle, Clare and Yarmouth.

Argyle and Clare can be considered, because of the numbers, as Acadian ridings or at least have a greater chance of electing Acadians. Yarmouth is predominantly an English speaking riding with approximately an 8 per cent French speaking population. The presence of an Acadian representing the riding of Yarmouth is, I guess, what could be called an historical exception to the rule. I think we have been very fortunate in having an Acadian from that area.

For the information of the committee, also, we have included a profile of six ridings of Antigonish, Argyle, Clare, Inverness North, Richmond and Yarmouth. A few explanations on that table, especially with respect to the total French population, that column, because what we have there, let's take for example the riding of Clare, since the member is right here, the total population that have declared French as their official language is 6,105; the English population is 2,565. The ones that have declared both is 1,040.

Now, what we have done in this particular profile, we have taken one-half of the ones that have declared both for our total French population, which gives us a percentage of 68 per cent. Now, if you had combined the 6,105 plus the 1,000, you would have ended up with something like 73 per cent. The reason why we have done it this way, so there might be a margin of anywhere between 2 per cent, 3 per cent, 5 per cent, depending. The federal Treasury Board uses that method of calculating the French population or the official language population, so does Statistics Canada in many instances. That does not change a great deal, but that is an explanation as to how we arrived at those figures.

With specific reference to the terms of reference to be given to the commission, it is important that members of this commission, which will be appointed, be instructed to take a close look to effective representation and not limit its consideration to vote equity. The very recent decision of the Supreme Court of Canada on the Saskatchewan electoral map clearly gives a new dimension to the whole question of voting power. The right to effective representation is given greater strength and gives the Acadian population strong arguments for guaranteed representation in the Legislature.

It is imperative that the commission be instructed to consider the judgment of the Supreme Court of Canada in dealing with Section 3 of the Charter of Rights and Freedoms. Determining provincial electoral boundaries based on equity alone would be wrong and against this milestone decision of the Supreme Court. We have included, and I won't read it, I am sure most, if not all have, but we have included a portion of that decision which we feel summarizes well the arguments that we are putting forth.

I have been very impressed with the language of that particular passage of the decision. I must say, in reading that, I could honestly say I was very proud to be a Canadian. It was very well put and a milestone decision.

[3:30 p.m.]

On the composition of the commission, we feel that individuals knowledgeable and sensitive to linguistic and visible minorities of this province are essential in order to establish a climate of fair play and trust. The size of the commission is unknown to us at this point, however, we suggest that at least one person have the proficient use of both official languages of this country. We are confident that this requirement could be met by an Acadian member of the commission.

It is also our hope that the commission will be asked to hold public hearings throughout the province and that a certain number be held with access to simultaneous translation, not for the Acadian community but to allow all members of the commission full understanding of the Acadian reality in Nova Scotia. We feel that it is important that the communities be given an opportunity, by whatever means, to express themselves in their first and native language. So we thank you for your attention. If you have any questions, I would be more than happy to attempt to answer them.

MR. CHAIRMAN: Merci, Paul. I just have one question. I take it from your presentation that la FANE would not be unhappy to see us instructing the commission to take into account matters pretty well as set out in the middle paragraph on the page that you have extracted from the judgment of the Supreme Court. Is that a fair reading of what you have had to say?

MR. COMEAU: Absolutely correct. The factor is, like, geography, community history, community interest, minority representation. I think, in a nutshell, it says it all right there.

MR. CHAIRMAN: Paul, any questions of Mr. Comeau?

MR. PAUL MACEWAN: I do not really have any questions, Mr. Chairman. It is a very good brief, very well put together. I am not saying that to be patronizing, I just simply agree with what Monsieur Comeau has said. I think the fact that he identifies some ridings that you might call Acadian ridings in Nova Scotia, particularly Clare and, more recently, Argyle, is possibly a model that could be followed too, with respect to the requests for the black community. They are simply asking, basically, that what has already been done in this respect, could be also done for them.

If you look at the so-called Acadian constituencies, they are certainly not constituted on the basis of people's language. They are areas on the map, but it so happens that the majority of the population there is of Acadian origin, so the tendency of an Acadian to be elected would be greater than would otherwise be the case. Although, it does not prevent an Acadian or a person of Acadian extraction from running anywhere in the province and being elected as, indeed, some have.

MR. CHAIRMAN: Or a non-Acadian.

MR. MACEWAN: Or a non-Acadian being elected in Argyle or in Clare, for that matter.

MR. COMEAU: That is right, yes.

MR. MACEWAN: I agree with what he is saying. It makes great sense. I think that the same thing could be done in the Cherrybrook-Preston area, for similar reasons, for other groups in Nova Scotia. So to that extent, I just want to say that this is a model. I certainly support the retention of the existing Acadian ridings.

MR. COMEAU: If I may just comment. At this point, we are now getting into the details. We have outlined our profile to six. We are not suggesting at this point that we will necessarily be addressing all six, in terms of our preoccupations, vis-a-vis Acadian representation. I think that is for later. When we come back before the commission, we will probably be much more specific, in terms of what we want to focus on.

MR. CHAIRMAN: Guy.

HON. GUY LEBLANC: Well, the suggestions regarding where these public hearings should be in order for Acadian communities that want to make presentations, I am saying that, premising that maybe it would not be possible to go to all areas of the province.

MR. COMEAU: Recognizing, probably, the constraints, in terms of time and moving around the province, I guess the commission will be visiting all 52 existing ridings.

MR. CHAIRMAN: Not likely.

MR. COMEAU: Insofar as southwestern Nova Scotia is concerned, I think that the combining Clare-Argyle-Yarmouth area, because we have not experienced, in terms of providing the necessary tools to make sure that everybody can express themselves in their own language, vis-a-vis the Argyle School Board. Maybe that would be one way of making sure that that be considered.

MR. CHAIRMAN: I have not discussed this with my friend, Monsieur le ministre but would a place like Université St. Anne be an appropriate spot for one of the hearings, perhaps? I do not know what Guy's thoughts are on that, he may disagree that that is a good point.

MR. COMEAU: I hesitate to maybe pinpoint an exact location because the people in Pubnico or Wedgeport, especially Pubnico, you are a far distance away from Université St. Anne and many will have to rent space in Yarmouth, or whatever.

MR. CHAIRMAN: Maybe. Well, that will be for the commission, itself . . .

MR. COMEAU: Of course. (Interruptions)

MR. CHAIRMAN: Okay. Any questions or comments arising out of Mr. Comeau's presentation? Guy.

MR. GUY LEBLANC: Do you have a suggestion for the Cape Breton area?

MR. COMEAU: Again, in terms of regrouping, maybe, because I think we will probably be really concerned about giving an opportunity to the people, especially of Inverness North and Richmond, to express their feelings on how it should be done. Again, not knowing what route or how the commission is going to go about it, I would insist that the same treatment, in terms of what is given to the Acadian communities of Inverness North and Richmond be followed in the Cape Breton area.

MR. CHAIRMAN: Well, merci beaucoup, Paul.

MR. COMEAU: Mon plaisir.

MR. CHAIRMAN: I am going to call next upon Mr. Noel Knockwood who is the Spiritual Leader and Captain of the Grand Council of the Micmac Nation. Noel, welcome. Glad to have you with us. A copy of Mr. Knockwood's presentation will be circulated to members of the committee. Before Mr. Knockwood gets underway, I should mention that he will be speaking also on behalf of Chief Donald Marshall Senior who is Grand Chief of the Grand Council of the Micmac Nation, who unfortunately, we understand, is not very well. I would like you, Noel, if you would, when you next see Chief Marshall to convey to him the best wishes of the committee for a quick return to good health. Thank you for coming and we would like to hear from you now, sir.

MR. NOEL KNOCKWOOD: Mr. Chairman, brothers and sisters. [Micmac]. When I communicate with you through the aboriginal language of my people, you do not understand me. Therefore, sir, I have to communicate with you in a foreign language called English or Anglophone. My opening statement to you is this. Today is a great day for our council because the Creator has unplugged our ears and opened our eyes so that we will see and understand each other. Somewhat like in ancient times, my people always spoke to the God of their understanding prior to any of their deliberations. Presently, I will exercise that freedom as I pray to the Creator.

Grandfather, Grandmother God, you are the ultimate force that created this universe and all life within. I summon thee from the far places into our present awareness. Oh Great Spirit who are before all else and whose presence is felt in every object, person and place, I cry on to thee. Teach us, that he who is wise, tempers justice with mercy. He who is strong is also kind, he who is truly brave matches courage with compassion. Today, as the red stand before the yellow, black and white people, I pray that you will enter into their souls so that they will understand our purpose. Thank you. Now, I will read our National Declaration of First Nations.

We, the aboriginal peoples of this land, know that the Creator placed us here. The Creator gave us our laws that govern all of our relationships to live in harmony with nature and mankind. The laws of the Creator defined our rights and responsibilities. The Creator gave us our spiritual beliefs, our languages, our culture and a place on Mother Earth which provided us with all of our needs. We have maintained our freedom, our languages and our traditions from time immemorial. We continue to exercise the rights and fulfil the responsibilities and obligations given to us by the Creator for the land upon which we were placed. The Creator has given us the right to govern ourselves and the right to self-determination. The rights and responsibilities given to us by the Creator cannot be altered or taken away by any other nation.

"Mankind was created . . .", according to the writings of Dr. Marie Batiste, Micmac person herself, " . . . for the Union of Nagooset (sun) together with earth and all things. The shadow of life placed within man held the beauty and spirit of all living things. All of Nagooset's (sun) each having its own role in maintaining harmony and life on earth.".

Before the Norseman came, we were here. Before the French or the English arrived, we were here. Before Canada was born, we were here and we will also be here according to the will of our Creator. It was my Micmac people who gave your ancestors the rights to stay on Micmac land. We now seek a place in your House so that we can represent ourselves in a true democratic fashion like it once was among our people.

From each wigwam, from each settlement of kinship and their dependents, the Grand Council recognized one or more Captains (cap'ten) to show the people the good path, to help them with the gifts of knowledge, to sit with the whole Santeoi as the government of all of the Micmac nation. The authority of our ancient government is and always has been spiritual. The continuity and authority of our nations exists in our culture, in a common bond and vision that transcends many boundaries.

To lead the Micmac along the good path in their domestic relations, and to advocate their interests in foreign affairs, the Creator endowed a few of each generation with special knowledge of the woodlands and the oceans and the concerns of the Spirit. Long before our memory, these people of wisdom and responsibility joined together in a body, the Great League, called the Grand Council.

In accordance with our ancient laws and law of nations, we recognized two Euro-Christian allies, the Church of Rome and the British Crown. In 1611, Grand Chief Membertou, by his baptism and agreement, associated the Micmac nation with the Holy See. Ever since, we have given the Church of Rome free access to our territory and people. Agents of the Crown sought us out as early as 1719 to treaty to peace and political association.

In 1752, we associated ourselves by treaty with the Crown and by this treaty are recognized as aboriginal people. Yet, we never sold or ceded by deed or by treaty a single inch of our aboriginal domain. Our domain was from the rising to the setting sun which included the following geographic area: All of Nova Scotia, most of New Brunswick, the entirety of Prince Edward Island, parts of the Gaspé Peninsula in the Province of Quebec and sections of Newfoundland.

Because of our special status as (Treaty) aboriginal people and because our domain transcends many non-native boundaries, the native population on all Micmac reservations must be classified as one single electoral boundary. That is the entirety of Nova Scotia. That is my recommendation I give to you for a very special consideration. That is one concept of Micmac representation by population to the Nova Scotia House of Assembly.

As a member of the Grand Council of the Micmac nation and as a private citizen of this great land, I thank you for giving me the opportunity to address this great assembly of people. Brothers and sisters, I have spoken. Thank you.

[3:45 p.m.]

MR. CHAIRMAN: Thank you very much, Mr. Knockwood. We hope you will be willing to respond to comments and questions which members of the committee might have.

MR. NOEL KNOCKWOOD: Yes, sir.

MR. CHAIRMAN: Perhaps I could lead off by asking a question, just to clarify in my own mind, the portion of your presentation concerning the classification of the electoral boundary. Is my understanding correct that you are saying there should be a single seat set aside for the Micmac nation of Nova Scotia which, of course, is the only geographic area that we are legally and constitutionally able to deal with, and that any person who is a Micmac residing within that geographic designation be entitled to vote to choose the person who will then become the member of the Legislature representing that constituency? Have I understood you well?

MR. NOEL KNOCKWOOD: Yes, you have. We can say that of all the reservation lands, our native Micmac population live in those territories. Because it transcends other geographical boundaries, it would only be logical and sensible that we make our boundary all exclusive of Nova Scotia. With that, we will be able to have representation by population, which is one of the criteria I believe you have to address.

MR. CHAIRMAN: Okay. Any questions for Mr. Knockwood, any comments on what he had to say?

MR. JACK MACISAAC: Well, perhaps maybe we would move more to a comment than a question. I appreciate fully what Mr. Knockwood has said, but I could not help but be moved somewhat by the comments contained in your eloquent presentation, Mr. Knockwood, about being the people here when all of our forefathers, at least our people, in fact, were driven off their lands, the highland Scots, of the west coast of Scotland who were driven off so they could put sheep on them. When you go over there and you see those lands up in the west highland coast of Scotland, there is a certain nostalgia that has to hit you to make you realize the reality of the uncertainty they faced on this side.

The hospitality they received when they landed on the coasts of Cape Breton and on the northern parts of Nova Scotia, particularly, where your people were, welcomed those highland Scots, in fact, without the hospitality that was first extended in the hands of friendship, those people would not have made it through the first winters. The recognition by people of that fact sometimes is lost through history, unfortunately, but I think this occasion presents an excellent opportunity to remind all of us that it was that hand of friendship that welcomed our forefathers five or six generations ago on the shores of Cape Breton and northern Nova Scotia.

MR. NOEL KNOCKWOOD: Mr. Chairman, may I respond to that?

MR. CHAIRMAN: Certainly, Mr. Knockwood.

MR. NOEL KNOCKWOOD: Sir, I need to tell you with great dignity that I respect your comments. You are one of the few non-native people who acknowledges our existence and that we are the First People. I respect your integrity for saying that. I would wish that all non-native people would think the way you think. Once we can do that, I am sure that Nova Scotia and Canada will be a better place to live and we will stand foremost in the nations of the world as we deal with aboriginal rights, land claims, self-determination and self-government. Thank you for your comments. I appreciate it.

MR. CHAIRMAN: Hear, hear. Paul or Ross, anything that you would like to add?

MR. ROSS BRAGG: Just one question, Mr. Knockwood. New Brunswick has made a move toward representation but they have added a little bit to it. I think there are two seats involved there, but non-voting status is what was proposed.

MR. NOEL KNOCKWOOD: I think it would be very wrong if a native politician had non-voting status, that you would only be window dressing. This non-voting individual would not be part of the government and his vote, his say and his presentations would be somewhat worthless. I do not like the recommendations of what New Brunswick is doing, if that is what they are doing. I recommend to you that we do not follow that pattern. If we follow their pattern with non-voting politicians, then it would be very wrong and it would be counter-democratic.

MR. BRAGG: A follow-up question. What about political alignment? There has been some discussion about whether there be political alignment with an aboriginal seat, or whether with one of the major Parties, or three Parties? Do you have a feeling about that?

MR. NOEL KNOCKWOOD: Well, there are advantages and disadvantages to both. I think one of the important things that we must do first is to get a seat in the House of Assembly. The second thing would be to determine as to if we should affiliate ourselves with other political Parties. Currently, I believe right now that we should not be doing that, that we should be going as Independents. But as time goes on, and once we get to know how the system works, we should then be able to make recommendations for change.

MR. BRAGG: Do you envision an election held province-wide, where maybe there would be three or four candidates coming forward and democratically electing one person to represent?

MR. NOEL KNOCKWOOD: Yes, I can envision that native people who would be nominated for that particular post will be elected from the Indian representations that are on the reserves today. Also, included in that are the Indian people who live off the reserve, because it is said at any given time of the year that there are approximately 3,000 native Micmacs in the Halifax-Dartmouth area. A special place has to be allowed for them to cast their ballots.

MR. MACISAAC: I should say on a lighter note there on your remark, Mr. Knockwood, when you said there were advantages and disadvantages to belong to any particular political Party, I want to assure you, that follows with all of us too, I think, on occasion. (Laughter)

MR. CHAIRMAN: Good point, Jack.

MR. NOEL KNOCKWOOD: Yes, I can understand.

MR. CHAIRMAN: Mr. Knockwood, just one further question, if I might. Mr. Dan Paul appeared before this committee last week, or on Tuesday, I guess it was, and spoke to us. He indicated that in his view, the Micmacs who were living off the reservation should have the right to decide for themselves whether they would wish to participate in electing the Micmac member of the House, or whether they would want to vote with the general population for the person who would represent the geographic area where they reside. Have you given that aspect of the situation any thought and would you allow to a Micmac person living off the reservation the option to choose as to which way he or she would want to cast their vote?

MR. NOEL KNOCKWOOD: Yes, I had contemplated that idea and I cannot come up with an immediate answer, because I do not know the consequences of double voting.

MR. CHAIRMAN: Yes. He did not ask for a double vote. He just said that the Micmac living off the reservation should have the option to decide whether he or she would want to vote in the geographic area where they were living, or whether they would want to exercise their right to vote for the Micmac member of the Legislature. He did not want to give them two votes, but thought that they should have a choice.

MR. NOEL KNOCKWOOD: I have not given that too much serious contemplation. I wanted to see that the seat is there, first. Then maybe we can talk about the voting principles later. Right now, I would kind of lean toward what Mr. Paul has said, that perhaps the natives living off the reserves should have the option to vote for the candidate of their choice who is of native status.

MR. CHAIRMAN: Fine, okay. Ross.

MR. BRAGG: Just one last question, Mr. Knockwood. I missed last week when Mr. Paul was here, but the view that you have put forward, and I guess what Mr. Paul has put forward, is that consistent with the total population of your people throughout the province? Is this something that is arrived at by consensus?

MR. NOEL KNOCKWOOD: No. We have not had the opportunity to assemble ourselves as a political provincial body of people and we have not sat down in dialogue with one another. What we are doing is, doing it individually by organization, perhaps. The representations coming from the Confederacy of Mainland Micmacs, the Native Council of Nova Scotia, the Union of Nova Scotia Indians and, perhaps, the Grand Council are sort of making their presentations individually because they are the representatives of the population.

MR. CHAIRMAN: Yes. Thank you. We had to do it that way, unfortunately, because of time constraints that we were operating under.

MR. NOEL KNOCKWOOD: Yes, I read the minutes of your first meeting and I can appreciate what discussions you had.

MR. CHAIRMAN: Yes, Paul.

MR. MACEWAN: I just wanted to say this, Mr. Chairman, that I do not know if I would propose this for all submissions that we receive, but I would certainly propose that this particular submission be passed on to the commission when it is constituted, with our endorsement.

MR. CHAIRMAN: Fine. Okay. Any other comments, then?

MR. BRAGG: Paul's comment just brought up one more thing. The Acadian representative that was just here spoke about having an Acadian member on the actual election commission. I wonder if it is your view, Mr. Knockwood, if a native person should be a member of this commission once it is formed also?

MR. NOEL KNOCKWOOD: I think one of my colleagues is going to be making a recommendation to you to that effect.

MR. CHAIRMAN: Very good. Thank you very kindly, Mr. Knockwood.

MR. NOEL KNOCKWOOD: Thank you.

MR. CHAIRMAN: We very much appreciate your willingness to come forward and thank you for the very excellent presentation you have made to us. Ladies and gentlemen, our next presenter will be Mr. Alan Knockwood, but I wonder if I could ask the indulgence of the committee for about two minutes. I have just been told I have to make an important phone call. So if you would excuse me for just a minute, I will be back in a moment and we will get underway with Alan.

[3:58 p.m.]

[4:01 p.m.]

MR. CHAIRMAN: Okay, ladies and gentlemen, thank you for allowing me to make that phone call. Our next witness is Mr. Alan Knockwood who is appearing as a private citizen. Alan, we are pleased to welcome you and ask you now to address the committee, if you would, please.

MR. ALAN KNOCKWOOD: Thank you for the opportunity to address this committee as a private citizen. I am not addressing this committee as a member or as a representative of any of the councils that my leader has told you about before. We were just talking back here a moment ago. The very first thing we would like to get forward is that the committee make a recommendation within the time mandate of the resolution, three weeks, and that the commission be required to make a recommendation to the Legislative Assembly before the fall of 1991, or before the next election. This is important because we are going to end up waiting five more years if we do not get this done.

I want to address a reply to some very unfortunate remarks that were made to you on Tuesday. Those remarks, I found, were very inappropriate. I was insulted, really, to hear that type of remark being made here in 1991. The remarks were racist and I do not think they were appropriate to you. Micmac people have been a part of this country for, we do not even know how long yet. We are not even beginning to want to know.

My concerns are with the systemic racist attitudes that are prevalent out there. My concerns are with the lack of opportunity that native people have to say anything about what is going on around them, be it from the federal level or even here in Nova Scotia. The fact that the native people have to pay twice to get things done, that we have to sit on the sidelines, is something that I grew up believing was the only way. I grew up believing that the history books were, indeed, the truth. That has to stop. There has to be a voice in that House that, if nothing else, sensitizes that House to what our concerns are. We have been ignored too long. We, as a people, are here, we will still be here and we are not going to just curl up and die, or float into dust, as many of the committees in the past have chosen us or wanted us to do.

4

We have made agreements with the governments, with the Acadians, with the English, agreements and treaties of peace, and we have always lived up to our side of that agreement.

Now, when we come and petition the Houses, be it here in Halifax or in Ottawa, we have to constantly redefine who we are, constantly remind people that, yes, we are Micmac and we are alive and well. To get a voice in our local government here, it is not just a matter of running down the road and getting nominated to a Party and say, well, it is easy for you, like one of the presenters made. It is not easy at all.

When you are looked upon as second-class citizens and, indeed, by the Government of Canada as something less than human, how can you get a voice in those Houses, be it here in Halifax or in Ottawa? When the governments refuse the responsibility of my own well-being, or take the responsibility and say that it belongs to Ottawa, is wrong. The responsibility should be in the hands of the native people, be they Micmac, Mohawk, or whatever. It should be our responsibility, empower us to take care of our own, empower us to have that voice in the House there, so people can hear what our concerns are.

When we look to vote in the Hants East area, if we happen to vote for the wrong Party, it does not make much difference. If we vote for the right Party it does not make much difference, be it Conservative, Liberal or NDP. It does not make any difference. Their concerns are with their own. There have never been concerns of that reserve. The very fact they have to call it a reservation, not a community, says something right there.

The opportunity that is opening up for us to have a voice in that House is far too important not to just walk away from. I hope, as myself, we get a voice, to finally get to hear what a Micmac needs and we will finally get someone up there who might show you how the sun rises in the morning. Thank you very much.

MR. CHAIRMAN: Thank you very much, Alan. I can assure you, sir, notwithstanding any submissions we have heard, that this committee is committed to the principle that there shall be a Micmac seat in the Legislature. That is reflected not only in the make up and the views of the members of this committee, but it is also the unanimous view of the Legislature as set out in the resolution which established this committee.

It is clearly recognized that what we are talking about in this committee and what the commission, which will flow from this committee, will be looking at, is not whether there should be a seat for the Micmac but rather the manner in which that seat shall be set up and established. So you can be assured, Alan, that despite what may have been said to this committee by some of the people who have appeared before it, our firm resolve to see that there is a seat for the Micmacs will follow through and is undiminished.

MR. ALAN KNOCKWOOD: I appreciate that.

MR. CHAIRMAN: Okay.

MR. ALAN KNOCKWOOD: I also urge you to speed.

MR. CHAIRMAN: Yes, we are aware of that. I want to tell you, and I hope it will not come as a surprise, that it appears unlikely we will be able to finish our mandate within the three week limit. That three week limit expires tomorrow and we have people coming to appear before us next week, so we will not finish but you can be assured that we are moving with all possible speed. We will have a report in the very near future and within a very short period of time after our limit actually runs out.

Nothing that has happened since we began our work has diminished our resolution and our resolve to conclude our work in just the shortest possible period of time, while at the same time, remembering that we have to do a thorough and good job. Thank you very much, Alan.

We now would like to call upon Mr. Dwight Dorey, the President of the Native Council of Nova Scotia who will be our final witness for today. Dwight, welcome, we are glad to have you with us. If you want to just relax for a second, Dwight, Mr. MacIsaac just took a short phone call. (Interruptions)

[4:10 p.m.]

[4:13 p.m.]

MR. CHAIRMAN: Back to order, please. We extend a welcome to Mr. Dwight Dorey, the President of the Native Council of Nova Scotia. Dwight, we are glad we are able to have the opportunity of hearing from you and we would ask you now to begin your presentation, please.

MR. DWIGHT DOREY: Thank you, Mr. Chairman. Good afternoon, members of the Select Committee of the Nova Scotia House of Assembly. I am Dwight Dorey, President of the Native Council of Nova Scotia, the self-governing authority for the off-reserve Micmac aboriginal people of Nova Scotia.

I welcome this opportunity to share some insight and my views on how this select committee may best achieve its goals. To this end, I will suggest a fair and equitable methodology as a fundamental principle to this issue of Micmac representativity.

(1) The composition of a provincial boundaries commission on electoral redistribution;

(2) Terms of reference for the commission;

(3) A timetable for the commission to complete its report.

If I may briefly overview the Micmac community in Nova Scotia. In Nova Scotia the aboriginal people comprise just over 14,000 persons according to Statistics Canada (1985).

MR. MACEWAN: Is that adults or total population?

MR. DOREY: Total population. The aboriginal peoples are citizens primarily of the Micmac nation which inhabit all of Nova Scotia, Prince Edward Island, parts of New Brunswick and parts of the Gaspé Peninsula. The Micmac as a tribal nation of people are members of the Wabanaki Confederacy which included those tribal nations of those

Northeastern Aboriginal Tribes of peoples known as the Maliseet, Passamaquoddy, Penobscot, Wowenock and Eastern and Western Abenaki.

Each of the tribes of the Wabanaki Confederacy had their own tribal territories which they fought and died for. Each had their own political, economic and social systems which they administered for the benefit of its people. Each had absolute control over the resources and products of their tribal territories. Each had political sovereignty and the aboriginal title to its lands was explicit in this political sovereignty.

[4:15 p.m.]

For countless generations, the Micmac governed their own affairs and flourished as a distinct society of aboriginal peoples within the context of tested tribal values, societal norms and tribal territory, as one of the many aboriginal peoples which inhabited the North American continent. I will not take your valuable time to recount the historical factors relative to post-contact, save to say that the contact with white persons, of Europeans, the Micmac were treated as a sovereign people and nation.

During the French-English supremacy period of 1690-1760, both the English and French treated the Micmac as sovereign peoples. The English treaty period, 1712-1786, saw a host of treaties and adhesions which were entered into between the sovereign Micmac and the sovereign Crown of England which respected aboriginal title and rights of the Micmac in Nova Scotia and, more particularly, made sovereign solemn promises of friendship and peace. The colonization period of 1750-1850, again, treated Micmac as sovereign people and, indeed, the Crown issued the Royal Proclamation of 1763, again confirming and acknowledging the rights of sovereignty of the aboriginal peoples of Canada.

The colonial period of government in the New World started in Nova Scotia with responsible government in 1796 until Confederation of 1867. Once again, utilizing the sovereign capacity. The Micmac, however, sadly at that time, due to a litany of broken promises and, indeed, the colonial attitude of the day, were excluded or discounted as people and, indeed, were forgotten from Confederation until 1982.

The Micmac are dispersed province-wide, 4,600 residing today in our approximately 36 on-reserve communities administered by 13 bands. The remaining 9,600-odd living in all areas, urban and rural, province-wide. To date, only 8,600 are registered with the remaining still to be registered, or in a process of registration as a result of the work of organizations like the Native Council of Nova Scotia and similar groups in forcing the federal government to amend the Indian Act of 1985, and correct the brutal injustice of depriving Micmac of his or her birthright because of his or her choice of residence.

The Native Council of Nova Scotia since its inception in 1975, first known as the Non-status and Metis Association of Nova Scotia, has been the advocacy group promoting the equality of treatment of all aboriginal people, regardless of their situation before a Colonial Act and, more so, of choice of residence in the traditional land of the Micmac of Nova Scotia. It is often mistakenly assumed by a white dominant society that the aboriginal peoples have no political culture, that until the coming of the colonist settlers, the aboriginal people lacked political institutions. This fact is wrong, in that the native people have occupied this part of the world society of people dating back to at least 9,000 years as evidenced by archaeological digs in Debert.

The Sixth Nation Confederacy of the Iroquois Confederacy, at which the Wabanaki Confederacy linked itself to vividly demonstrate in their bead wampum, the lines of the governmental chain between the aboriginal people and the white peoples. Indeed, the Micmac, also having a wampum belt, testimony to the peace and friendship born out of their relationship between the newcomers and themselves. The Iroquois beaded belt speaks of:

> "One line is for the laws and religion of the Iroquois. The other line is the law of the white brother. The white background is the peace and that stipulates that we keep our laws and we will not interfere with the white man's law. We govern ourselves. The other line is that the white man is not supposed to interfere with our law. We are supposed to go together like boats on a stream, one of our people and one of our brother, the white man.".

Sadly, during the last 150 years, the laws of our white brother have been used against us and, indeed, have harassed and abused our people to the point where today we are not even looked upon as human beings living, but rather thought of as some form of archaic museum piece. The exclusion and neglect of our voice within your Legislatures and within your institutions has taken a dramatic toll on our distinctiveness as a people.

Happily, because we are Micmac, the years of countless generations and centuries of our society have survived, and your cultural domination has been unable to erase our pride, our language, our traditions and our belief that all men are equal and that we are all part of what is around us. Therefore, your laws and institutions have not changed the doctrine of the ecocentric world view held dear by us. I also, at this point in time, leave you copies of the booklet, The History and Achievements of the Native Council of Nova Scotia, as well as the Micmac Treaty Handbook, which will provide you with some very light reading and, at the least, shed some light on the Micmac of Nova Scotia.

MR. CHAIRMAN: Thank you, Mr. Dorey, we appreciate that very much.

MR. DOREY: I had the pleasure of attending the October 1st Treaty Day 1991 celebrations where the Grand Captain, Alex Denny, of the Sante Mawiomi Wjit Mi'kmaq, representing the Micmac people of Nova Scotia would have your consideration for the concept and, indeed, the affirmation that the Micmac hold no grudge against you. That we wish to maintain for today and the future the peace and friendship that our forefathers and your forefathers promised to live in at this historic location now called Halifax. The Grand Captain's presentation raised the novel concept that the Government of Nova Scotia should maybe now explore the establishment of a seat in the Legislative Assembly for a Micmac who would speak to you directly on matters affecting treaty relations and the Micmac as a distinct people.

There are many examples of many countries around the world who have honoured their promises to the first peoples of their lands, accommodating similar representative status in their governing institutions. We have the Maori of New Zealand, we have the Australians, American models, in state legislatures, we have countless governments establishing whole bureaucracies noted as ministries, which deal with the whole range of issues directly affecting their aboriginal brothers. Even in Canada, we have several provincial jurisdictions which have established full ministries of aboriginal affairs.

Sadly, in Nova Scotia, the Native Council of Nova Scotia has advocated, since 1976, to have a ministry established in this province without success. Save to say that in 1985 the government of the day adopted a previous government's initiative and had established a subcommittee of the Cabinet to deal with aboriginal affairs which has not been effective.

I, on behalf of the aboriginal people represented by the council who reside off-reserve, would like this select committee to very cautiously and carefully consider that if the Government of Nova Scotia is sincere about listening to the Micmac, their concerns and their solutions which will help to bring the co-existence of both societies in true friendship and peace, then it would be behove to do the following:

(1) Acknowledge that there are Micmac living in every sector of this province and not on reserves only.

(2) The select committee should ensure that the conception of a provincial boundaries commission of electoral redistribution involves not only members from aboriginal advocacy groups; namely, the Native Council of Nova Scotia, the Union of Nova Scotia Indians, the Confederacy of Mainland Micmacs and the Nova Scotia Native Women's Society, but also would involve lay Micmac who have, in their own right, promoted peace and friendship, and who hope that one day the majority of Nova Scotians would accept the fact that although there are nearly 14,000 Micmac in Nova Scotia, they are people who have and should be afforded the rights of a people.

I think Mr. Alan Knockwood's presentation here, as an individual, is an example of that.

I personally can nominate to the committee several names of such persons who would gladly serve on the commission and, indeed, provide much useful information.

As to the terms of reference for the commission, we would caution that the select committee, in establishing a commission with a pre-determined or conceived objective of granting a seat to the Micmac, we would like to see a set of terms of reference which would seek to explore how best the Micmac, as distinct peoples in Nova Scotia, can voice effectively their aspirations within your legislative institution. Furthermore, we must ensure that the Legislative Assembly will accommodate greater involvement of aboriginal people within the political institutions, while at the same time, promote the practicing of Micmac political governing institutions to co-exist in friendship and peace.

I would like to see a term of reference that would ensure that the Government of Nova Scotia seriously seek to establish a ministry of aboriginal affairs wherein the minister would be the Micmac representative in the House and, moreso, that the ministry, itself, would employ the greater proportion of Micmac in its administration. For example, I would favour a ministry such as the Manatou Maori, wherein all employees of that ministry are Maori, and not to use the model of the federal government's Department of Indian Affairs, wherein the majority of persons are non-native.

I would also like to see a term of reference which would move the commission to explore the prospects of how the solemn peace and friendship codified in treaties, and acknowledged in the Canadian Constitution could be incorporated as a mission for the Government of Nova Scotia to pursue with the Micmac people to ensure, once and for all, that all peoples residing in Nova Scotia respect the other as contemporary societies practising their heritage, culture and traditions in the spirit of harmony and well-being for all future generations.

As for the timetable, we the Micmac have for many generations sought to be invited to help build Nova Scotia together. I think that our patience is well-tempered and we need not try to force such important matters to accommodate a partisan view. If it takes three years for the commission to make its findings, that is fine. In other words, the process of the commission for consultation with the Micmac must not be subject to accommodating a separate political agenda.

In summary, I thank the select committee for hearing the presentation of the Native Council of Nova Scotia and I hope that you find forthwith to recommend:

(1) The commission must look at representation from all Micmac, province-wide, on and off reserve.

(2) The concept of the commission must and should include, besides the four advocacy groups, lay Micmac men and women.

(3) The commission not view its thinking of one seat, as a guaranteed seat, but rather explore what is required.

(4) The commission enter into its terms of reference the establishment of a ministry of aboriginal affairs.

(5) The timetable has a medium of ensuring that what has to be done is done so as to create new treaty relations which will be lasting.

(6) Finally, that such new or revised legislation drafted to accommodate a Micmac representative in the provincial Legislature be preambled with a constitutional Section 35 non-derogation clause.

Thank you. Just a couple of final points I want to mention in respect of the issue that is being discussed. I left the chairman a copy of A Declaration of Metis and Indian Rights. Unfortunately, I did not have enough for every member. I would like to make note of the fact that this declaration was made by the Native Council of Canada on March 19, 1979 to the federal government. One of the declarations made was that, and I will read it, it quotes: "That we have the right to guaranteed representation in all Legislative Assemblies.". I just want to make a point, that this is nothing new, this concept. It is something that the aboriginal people have been saying for a long time in respect of our special rights in this country. We have the right to guaranteed representation.

Just one further point to that. The Assembly of First Nations, just this week, I was a delegate there. We were involved in a democratic process which elected a new national leader. I think it is worth pointing out here that that leader, up until just very recently, has been a non-status Indian, yet, the process of the aboriginal people selecting its leadership did not limit itself to the Indian Act, or people that are defined as Indian people under that Indian Act. I do not think any process in selecting representation of the Micmac people in Nova Scotia should be limited to the Indian Act either. Thank you.

[4:30 p.m.]

MR. CHAIRMAN: Thank you very much, Dwight, it was an excellent presentation. Commenting on it, I just want to note a couple of things. One, I got the impression from Alan Knockwood in his presentation that he would like to see something put in place reasonably quickly. On the other hand, the concept that you have put before us indicates that you can see a commission which would sit over a long period of time.

I would take it from your presentation that you would also see it being a very large commission. If you are talking about each of the Micmac advocacy groups plus lay people being represented on this commission, I can see the black community asking that the same sort of representation be given to them and the Acadian community seeking to have their various organizations given representation on the commission. My fear of that is that we would thereby create a very unwieldy commission. In my own mind, and this is something that the committee here has not yet discussed, I saw the commission we would recommend as being a much smaller group than obviously you envision.

The other point I want to make about your presentation is that some of the things you are suggesting, and this is not to diminish in any way their validity and to say that I disagree with anything that you have said in here, but some of the suggestions you have made, I think, are beyond the scope of our terms of reference and also would be beyond the scope of the terms of reference of an electoral boundaries commission that we are to recommend. I say this not in any way to diminish their importance or their validity, but we are to deal with only the establishing of a commission to set electoral boundaries for representation in the House of Assembly.

Matters dealing with the structure of the Government of Nova Scotia are really not within our terms of reference. So I just wanted to make that point to you and to say that you have made many excellent points and they are all matters that we will take into account. Insofar as it is possible for us to accommodate them, we will certainly endeavour to do so.

MR. DOREY: Point well taken, Mr. Chairman. Some of the things, I should venture to say that in respect of what you said, I knew that when they were being stated, but the fact is that in terms of an electoral commission looking at the issue of Micmac representation in the Legislature, these are things that I believe that the commission should be taking into account, okay?

MR. CHAIRMAN: Sure. Okay.

MR. DOREY: In terms of the size of the commission, itself, I guess, again, you must realize that the main concern I have, and one of the primary points that I want to get across here, as stated in my submission, is that it is extremely important what is done to this process is done right the first time. If that means it is going to take a little longer than anticipated, fine. If it means the process is going to be a little bigger than initially anticipated, I say that is fine, as well.

In fact, I would go as far as a supplementary comment here today to suggest that there are internal matters which need to be clarified within the Micmac community concerning representation in the Legislature. This may very well be worked out through some subcommittee, but there are issues that need to be addressed, such as the identification process of Micmac. It is clear that I will not accept Status Indian, or the Indian Act, as the terms of definition.

Micmac electoral districts, what are they? I think those are things that we should be considering internally. The question that was raised to Mr. Knockwood about political affiliation, I would give you my own personal view on that, that it should be up to the individual, whatever process is determined, to elect a representation. It should be up to that individual to decide for himself whether he wants to affiliate with a Party or run independently. The people voting will decide for themselves whether they want to elect a Party affiliate, or not. It should not be something that is pre-determined.

MR. MACEWAN: I agree.

MR. DOREY: These are, again, the sort of things that we need to discuss, I think, internally as a community of people. I would venture to say that external splits within our organizations or our community, reflective of these organizations caused by the Indian Act, that you cannot expect us all to come together rather quickly in a short timeframe and all speak or be saying the same thing with one voice. There are matters of the Micmac enumeration process, electoral quotient, I think, is the word that we use. These are things that I think are extremely important and if it is necessary to take a little longer or set up a subcommittee of all native Micmac people, then let's do it. But, again, the important issue is to make sure it is done right.

MR. CHAIRMAN: No question about that. I have just received a message that our presence is required across the street, so are there any quick questions for Mr. Dorey then before we thank him on behalf of the committee? Dwight, thank you very kindly. It is an excellent presentation you have made and gives us a lot of food for thought. We are grateful to you for coming here this afternoon.

MR. DOREY: Thank you. Might I make one final request? I would like the text of my submission to be fully submitted to the commission as well.

MR. CHAIRMAN: Fine, yes, they will all be attached as appendices to our report. Yes, that can be easily accommodated. Thank you very much. Now, just before the committee rises, just before we go, we have two other people who have indicated a desire to appear before us, Mr. Dan Christmas of the Union of Nova Scotia Indians and Mr. Anthony Weagle, a private citizen from Queens County. I am suggesting that we try to meet on the morning of next Thursday, June 20th.

In the meanwhile, I would invite members of the committee to give some thought to the finalization of our report, if they have suggestions for membership on the commission. Give some thought to the matter of size of the commission, and so on, because we are going to have to start dealing with the nitty-gritty of this. It will probably be 10:00 or maybe 10:30 on Thursday morning.

[The committee adjourned at 4:40 p.m.]

HANSARD

NOVA SCOTIA HOUSE OF ASSEMBLY

COMMITTEE ON ELECTORAL BOUNDARIES

Thur., June 20, 1991

RED ROOM

Printed and Published by Nova Scotia Hansard Reporting Services
(Editor - Rodney Caley)

ELECTORAL BOUNDARIES COMMITTEE

Mr. Arthur Donahoe (Chairman)

Mr. Jack MacIsaac

Hon. Guy LeBlanc

Hon. John Leefe

Mr. Ross Bragg

Mr. Paul MacEwan

Ms. Alexa McDonough

In Attendance:

Mrs. Joan Kelly
Legislative Committees Clerk

WITNESSES

Mr. Bruce Wildsmith, Legal Advisor, Union of Nova Scotia Indians

Mr. Anthony Weagle, Private Citizen

MR. ARTHUR DONAHOE (Chairman): Ladies and gentlemen, can we come to order please. I would like to welcome everybody to this, the seventh and final public hearing of the Select Committee on Establishing an Electoral Boundaries Commission for the Province of Nova Scotia.

We have two people here this morning to make presentations to the committee. The first is Mr. Bruce Wildsmith, who is the legal advisor to the Union of Nova Scotia Indians. He will be followed by Mr. Anthony Weagle, who is a private citizen from South Brookfield in Queens County.

So, Bruce, would you come forward and take a seat, please. We are looking forward to hearing your presentation on behalf of the Union of Nova Scotia Indians. Welcome, and the floor is yours.

MR. BRUCE WILDSMITH: Thank you. Mr. Chairman and members of the select committee, first let me bring greetings and express regrets from Dan Christmas and the members of the executive of the Union of Nova Scotia Indians. Their preference would have been to be here this morning. By and large, the Union of Nova Scotia Indians prefers, where possible, to have Micmac voices speaking on Micmac issues. This was not reasonably feasible today because the executive of the union is meeting in Sydney to handle the affairs of the organization including planning the annual assembly that is coming up in a couple of weeks.

I bring you, this morning, five key points for consideration. The first point is that the Union of Nova Scotia Indians supports the concept of a direct Micmac voice before the House of Assembly, and subject to what else I say this morning, hopes to participate before the electoral boundaries commission in its important work.

The second point is that the issue of a Micmac seat has not been fully aired before the Micmac communities. There is a need for much more extensive internal consultation within those communities before settling on a position. We believe that this consultation must be broadly based within the Micmac community and probably will need to involve community meetings. We may, as well, need to conduct research, to develop ideas and models and, perhaps, learn from the experience with aboriginal representation in other Legislative Assemblies such as that in the State of Maine and with the Maori people in New Zealand.

The third point is that at the moment there is a lack of unanimity on what a Micmac seat might look like. Therefore, we are suggesting to this select committee that a very broad terms of reference is required so as not to preclude any possibilities being raised before the electoral boundaries commission.

For example, one view might be that the purpose of the Micmac seat is different than the purpose of other seats in the House of Assembly. Instead of being a voice concerning, as is normally the case, wise resource allocation and policy on matters of provincial jurisdiction such as municipal affairs or whether one should build a new Bluenose III or take initiatives to support development of tourism, that would be the kind of normal voice that is heard in the House of Assembly, the Micmac voice might be heard in recognition of and to protect the special constitutional and legal rights of Micmac.

. 5

So, what I am saying is that there may be different concepts of the purpose of a Micmac seat and why there is a seat there at all.

Similarly, there may be differences within the Micmac community as to whether the seat should be one that is filled through election in the general provincial elections, as is normally the case, or whether a separate Micmac election would be appropriate. Some Micmac may feel that the seat should not be filled by election at all but rather by appointment within the Micmac community.

Further questions, would the seat be a voting or a non-voting seat? I know that there has been a general presumption that the seat would be a voting seat. But it may be that the Micmac community would feel inclined to have a non-voting seat, which may sound a little bit unusual.

Would the seat be based on reserve residency? That is, what would be the constituency from which the seat would be filled. Would it be reserve residency, would it be based on membership in a Micmac Band, which would then include off-reserve residents or, more generally, would it include membership in the Micmac nation as a whole, which might then include people who are classified as non-status or unregistered Micmac?

Would Micmac have two votes? For example, one for a Micmac seat and one for a regular member based on geographic residency. Would Party politics play a role?

[10:45 a.m.]

Though I understand your hands may be tied about numbers, I think because of the terms of reference of this committee, the Micmac community itself has not considered whether one seat can be accommodated to the existing Micmac political structure. Thus, in short, there are a variety of considerations that have to be taken into account that differ from the normal considerations taken into account in setting electoral boundaries. The terms of reference proposed by this committee should be broad enough not to foreclose any possibilities. So that is the third point about the breadth of the terms of reference.

The fourth point, the House Rules for the House of Assembly may need to be changed to accommodate the Micmac seat. This may be a matter that the electoral boundaries commission should look at. If any form of Micmac representation other than as a regular, normal member carrying the banner of a particular Party is suggested, adjustments, we feel, must be made to the Rules of the House to permit an effective opportunity to participate.

Again, it is not clear to us if suggestions on change to these rules is properly the work of the electoral boundaries commission. I suspect that it has not been traditionally. But if the commission is to suggest a full package on how a Micmac seat is to operate, then account should be taken of this issue of Rules of the House. (Interruption) What do I mean?

For example, if the Micmac member is not a member of a political Party the rules with respect to speaking on the business of the House on a particular bill might have to accommodate an opportunity for the Micmac voice to be heard. That is if the Micmac member was equivalent to an independent member now, it may be that no opportunity would be available or very limited opportunity would be available for the Micmac person to speak. In other words, the seat would be marginalized because of the failure to participate with an existing political Party.

Now, of course, I am not saying that that is what the seat would ultimately look like. All I am saying is, the Micmac community has not looked at this issue, does not have a firm position on it, and if anything out of the ordinary is to be done, some further accommodation might be necessary. So, I think this is a point that needs to be thought about and whether it is the electoral boundaries commission or whether it is possibly another select committee that is set up by the House to look at this problem.

I think the central message that I am trying to convey is that one should not assume that the Micmac seat would be a seat like every other seat that is in the House except filled by a Micmac person.

Which brings me, really, to the fifth point, which is this, that if a Micmac seat is to operate effectively it must be with the cooperation and consent of the Micmac community. There is a danger that unilateral action by the electoral boundaries commission or by the government or by the House of Assembly even after consultation with the Micmac will not be effective. The Union of Nova Scotia Indians sees the distinction between Micmac governing structures and institutions and non-Micmac governing structures and institutions, and recognizes the difficulty of either group, Micmac and non-Micmac, acting on matters such as this without the full cooperation and consent of the other.

The electoral boundaries commission is not structured to operate in this way since its mandate, I presume, would be to listen and consider submissions and report back to the House and not to report at all to the Micmac community, i.e. it owes no reporting duty or responsibility to the Micmac. It is an institution of a non-Micmac government. Therefore, as a final point, we ask that you consider making a recommendation on the terms of reference that addresses the process to be followed by the commission.

MR. CHAIRMAN: Could you read that again. I lost you there for a moment. We consider a recommendation . . .

MR. WILDSMITH: . . . on the terms of reference that it addresses the process to be followed by the commission, specifically, we suggest that the commission be mandated to work with, indeed negotiate with the Micmac community to come up with a recommendation to the House that is agreeable to the Micmac. This, no doubt, would be unusual but the problem is unusual.

I point out to this committee that such direct discussions, negotiation, accommodation, has been the process through which progress with the Micmac have been made in other areas, notably, as I know Mr. LeBlanc is well aware, areas such as the conservation or hunting agreements that have been signed with the Micmac over the last couple of years and with a tripartite process involving the federal government, Province of Nova Scotia and the Micmac communities, that is now underway dealing with other issues of concern to the Micmacs such as policing and a separate justice system.

It is also the historical process that has been followed by Nova Scotia in colonial days and it is a point of interest to sit in this room and see the figures who are displayed in the paintings on the wall most of which come from the pre-colonial era. So there is a long history within this province, dealing with Micmac issues by direct discussions and here I am thinking about historical documents that have been signed between the Government of Nova Scotia and the Micmac dating back in the period between 1725 and 1779, that is the treaties process.

So what I am saying is there would be no point in the final analysis in the commission and in the House of Assembly saying to the Micmac, well the door is open, come on in, only to have the Micmac say that they decline the invitation. So what I am suggesting is that a different process of discussion or dialogue with the Micmac community might be more appropriate for the electoral boundaries commission. Indeed, on this process question, if this committee deems it appropriate, you might consider, that is this committee might consider, further discussions with the Micmac community or at least seek further input from the Micmac when you, yourselves, draft your report and put the paper, draft terms of reference for the electoral boundaries commission.

I know that time is of the essence, time is short and that any further consultation might be more a matter of courtesy than a matter of substance but I am simply saying that for this committee itself to consult further with the Micmac community about its work would show to the Micmac the importance with which you regard the question of the Micmac seat and act as a signal to the electoral boundaries commission about the appropriate way in which to conduct affairs with the Micmac.

So, all in all, we ask that you provide the electoral boundaries commission with very broad terms of reference concerning the Micmac seat, so as to allow creative solutions consistent with the wishes of the Micmac. Further, that you authorize the commission to directly interact and negotiate with the Micmac to develop for the House of Assembly a proposal that is based on Micmac consent and agreement. Finally, that you, yourselves, consult with the Micmac further on the substance of your report and on draft terms of reference for the electoral boundaries commission.

We have an historic opportunity to devise a framework for a novel experiment in aboriginal-provincial relations. Please ensure that the opportunity is not lost. Thank you for your attention and patience this morning. Those are our comments and I would be pleased to respond to any questions or inquiries.

MR. CHAIRMAN: Well, I want to begin, Bruce, by thanking you for an excellent presentation this morning. I have a couple of questions that I would like to put to you. You have recognized in your presentation some of the constraints under which this committee is operating. As you know, when we were established, a three week time limit was imposed on us to do our work and we have already gone beyond that, justifiably so. But there is a requirement upon us that we move as quickly as we can to report back to the Legislature.

We have heard from representatives of most now, if not all, of the Micmac organizations throughout the province. As you know, there is a sense of urgency to the establishing of the commission and, also, a degree of urgency in having the commission complete its work as soon as possible.

There have been talks of a court challenge to existing constituency boundaries, there have been questions about the factors that the commission, itself, can take into account in doing its work. I appreciate and understand the thrust of your presentation this morning, that there should be a great deal of consultation and all reasonable efforts made to obtain the agreement of the Micmac people of the province to any recommendation that is made. You have touched on all of the issues that have been presented to us.

In particular, you have mentioned that as of right now, there is no consensus in the Micmac community across the province on the form of the Micmac seat, but I want to ask you this. First of all, is it your view that such a consensus can be developed among the Micmac and, secondly, if so, do you have any idea as to how long the process of developing that consensus might take?

As you know, one of the things we have to do is set a timeframe on the work of the commission and indicate to it a date, I think, by which we would like to have it report back. Do you have any sense on either of those questions? Namely, do you believe that a consensus can be developed in the Micmac community and, secondly, if so, how long would it take to develop such a consensus? They are difficult questions but I think they are very relevant.

MR. WILDSMITH: It is very difficult to comment on the question of arriving at a consensus. It seems to me that there have been precedents in recent times where a consensus has been arrived at by the Micmac community, such as in relation to the conservation agreements. They were signed unanimously by the political organizations and by the chiefs of all the bands. The tripartite process that is now underway is one that is supported by all the political organizations. So I think it is an achievable objective to think about arriving at a consensus.

Although, I did allude in my presentation to the question of there being one seat and whether this question of one seat, how it can be adjusted with the existing political structure within the Micmac community. So it would be unfair of me to suggest that there is not a possible problem out there about building a consensus over how you fill one seat. It is an objective, I think, that is worth attaining and worth working hard towards. It is something, I think, that is not unrealistic to think that it can be achieved.

[11:00 a.m.]

As to the timing of it, again, that is somewhat speculative but it would seem to me that through the period of the summer, several months are there to undertake community meetings and put information into the communities and to contemplate and discuss this objective. So, again, I am a little uncertain about the degree of urgency of the commission in reporting back, but it would seem to me that some time by the end of September would be realistic to conclude this process. Is that consistent, Mr. Chairman, with the rest of the work of the boundaries commission?

MR. CHAIRMAN: Well, we have not really directed our minds yet to the timeframe that we might want to impose. We have been hearing from people and we have to, at the conclusion of the public hearing process, sit down and then come to some conclusion among ourselves as to just what we think will be a reasonable time to impose.

But, clearly, what you have suggested is not out of line with what has been going through my own mind.

I do not know what is in the minds of the other members of the committee, because we have not canvassed it yet, but clearly, a process that could be concluded by the end of September would not be out of line, as far as I am concerned, in terms of my own thinking about the time limitation we might want to impose on the commission.

I noticed Mr. LeBlanc wanted to ask you a couple of questions. Guy.

HON. GUY LEBLANC: Yes, Bruce, you made reference to some of the negotiations and agreements that have been made with the native community and the government. However, I realize there has to be a lot of consultation. I have no problem with that. I think it is very important and I think that is why the guidelines, points or terms of reference will be suggesting public consultation.

One of my concerns, and I would like to hear your comments, I know the difficulty that Micmacs face in having sometimes a common ground on an issue, and the chairman asked if you thought that that would be arrived at. In those terms, you made reference to some other agreements. This would, however, I would think, be a little bit different, because as you are well aware, in negotiating, for example, a conservation agreement, there were many things that came on the table. The minister's concerns were involved and had some powers to deal with those.

I cannot see this commission being in that position in putting some of those items that were put on the table when we were negotiating the conservation agreement. I would see a difference between the consultation process in establishing this seat, compared to those other agreements. I think there has to be consultation.

I guess my question would be, who does the commission refer to for the final analysis, suggestions and recommendations, because there could very well be three different recommendations? Those have to be brought together somehow. Are you saying the onus should be on the commission to bring that about, or is the native community prepared to set up some mechanism, whether it is the tripartite process or some other mechanism that the commission, in its final analysis, can refer to and have the best possible consensus and agreement among all Micmacs in the province?

I will throw another one in there. Do we deal with the representatives, or should they deal with the representatives of the different organizations, or do we deal with the 13 chiefs and the union, as we have done in many of our other negotiations? I think that is very important that we get a feel, because I know they rely a lot on your legal counsel and I know you will have some influence in what they do and I appreciate that. But I think your guidance would be very helpful to us.

MR. WILDSMITH: Well, let me tackle the last question first, which is about who you should deal with in speaking on behalf of the Micmac community. I think it is fair to say that there are three main political organizations that are operating within the Province of Nova Scotia, so, unfortunately, all three should be dealt with and consulted with: that is the organization I am here on behalf of this morning, the Union of Nova Scotia Indians, who include all of the bands on Cape Breton Island, the largest band on the mainland, Shubenacadie, and two other bands that operate on the mainland of Nova

Scotia; the second organization, the Confederacy of Mainland Micmacs, and I know they have made a presentation to this committee, who represent six or seven bands on the mainland of Nova Scotia; and the third organization is the Native Council, they also had made a presentation, I believe, to this commission.

The 13 chiefs who are elected and operate under the auspices of the Indian Act all work in one way or another with either the Union of Nova Scotia Indians or with the Confederacy of Mainland Micmacs. So I think it is, by and large, fair to say that if you deal with those two organizations you, in effect, deal with the 13 chiefs. The Native Council views as its constituency off-reserve Micmac, some of whom are registered and some of whom are not registered under the Indian Act. So if you deal with those three organizations, you basically deal with the Micmac community. There is a Grand Council of Micmacs, as you are aware. The Grand Council works with all of the organizations but, by and large, leaves what they regard as internal matters within the province to the three political organizations.

So I think that generally answers the question of representation, but it does not answer the question of how the three political organizations coordinate together. That, I think, it is fair to say, is a matter that is internal to the Micmac community and to those three organizations. So I would say to the committee that it ought not to be your concern about how the three organizations interact. The three organizations will have to have a voice and if they end up with a common voice, that is, a common position, that is great. If they do not, unfortunately, you will have to come to grips with that.

Which brings me around, I think, to your first question which really is that, as we see it, and as I am sort of structuring this presentation today, you have the responsibility to report to the House about the electoral boundaries commission and the electoral boundaries commission has the responsibility to report back to the House. So this is a matter that is internal to the governing structures of the Province of Nova Scotia. So I do not see that you have any additional responsibility. What I was attempting to say in my presentation is, that there is a way of doing business with the Micmac community.

MR. GUY LEBLANC: So is there a move within the three political organizations to arrive at a common voice?

MR. WILDSMITH: Well, to my knowledge, there is not a structured effort to do that, you know, today as we speak. But the way the community has operated in the past is that where there is an issue that requires a common front or a common position, then the three groups consult together and have mechanisms to attempt to do that. It is just too early in the process to say that it is happening today.

MR. CHAIRMAN: John first and then Alexa.

HON. JOHN LEEFE: With reference to the five points, Mr. Chairman, I am in full agreement with the first three. I, however, am fundamentally opposed to persons other than members of the House defining the rules under which the House operates. I think it is important that, at least those of us who believe that to be the case say so.

I also concur that cooperation and consent is vital to this exercise, however, I believe that it would be irresponsible for this committee to demand of the commission that it successfully negotiate an agreement with the three organizations which, broadly speaking, represent the Micmac communities across the province prior to reporting. It could well be that could cause, if we were to hobble the, and I use the word hobble intentionally, the commission with having to find that agreement they might well not be able to report in three months, four months, six months or eight months. This is an exercise for all Nova Scotians and I think it is essential that we not put the commission in the position whereby they have to go out and strike agreements with any group prior to their reporting.

Cooperation and consent are vital but I think what is in the most essential interest of the province is that the commission within a reasonable time be able to report to the House so that the House can then act on those recommendations. In order to be of assistance to the committee, I think that it would be most helpful if the union could provide us with a draft terms of reference which we might consider prior to making our report to the House and recommending the manner in which the commission would operate.

MR. CHAIRMAN: So I take it that you are asking Mr. Wildsmith if that would be a possibility?

Bruce, do you want to respond to that?

MR. WILDSMITH: Okay, I think there are three points made that I would like to respond to. The first two may be the result of misunderstanding what I am suggesting here this morning.

First, with respect to the House Rules, I am simply alluding to the fact that it seems to me that some changes might have to be made. But as to the question of somebody other than the House telling the House what its rules should be, I would like to make it clear that we see the operation of the House to be the responsibility of the House. If changes to the rules are thought appropriate by the House, fine, and if changes to the rules are thought inappropriate by the House, then that is the House's decision, quite clearly.

On the question of the electoral boundaries commission negotiating with the Micmac community, your comments suggest that the final result of that negotiation must be an agreement and that the time to arrive at an agreement might delay the work of the commission. Again, it would be nice if an agreement was what was achieved by that process but it seems to me that the fundamental aspect of what I am trying to say today is that there should be a different process of dealing with the Micmac community over this than the normal public hearing and submissions; that there should be some discussions, some airing of possibilities and concerns and a process that helps each understand each other better. If an agreement is the end result, so much the better but if it is not, at least the commission will have sought that consensus and have treated the community with respect and consideration.

On the question of draft terms of reference. I would say, absolutely, we would be very happy to participate and to interact and to suggest draft terms of reference. I think we would need a bit of guidance and a bit of precedent as to what it is the electoral boundaries commission has had in the past by way of terms of reference but we would be absolutely fully prepared to cooperate and to suggest drafts.

[11:15 a.m.]

MR. CHAIRMAN: As I understand what John Leefe was asking was that the request is for a proposed draft from the Union of Nova Scotia Indians with respect only to the matter of the Micmac seat. I do not think we are looking for a broad set of terms of references but with respect to the particular issue.

Here, I would venture to say, that there would be a dearth of precedent because I think we are breaking new ground here. I do not think that there would be much around to act as guidance. We could certainly make available to you copies in terms of OICs from New Brunswick where an Electoral Boundaries Commission has been established, from Saskatchewan where a boundaries commission was legislated and we do not know now what is going to happen in Saskatchewan in light of the recent Supreme Court of Canada decision. But because we are breaking new ground and because we do want to get as much input from the Micmac community as we can, if you could put your mind to this, as legal advisor to the union and suggest to us a draft that we might, on the understanding that we would be not be obligated to accept this, but on the understanding also that it would be helpful to us.

Now, I am going to put you on the spot because we are going to have to come up with our report fairly soon for the Legislature. So if you are agreeable to doing this, I do not want to put a time limit on you, Bruce, except that I do want to say to you that time is very, very much of the essence in this regard and we would like to have something from you in a matter of days rather than weeks.

MR. WILDSMITH: Done.

MR. CHAIRMAN: Okay, good. Alexa wanted to get into the discussion.

MS. ALEXA MCDONOUGH: Thank you, Mr. Chairman. The first thing I want to say is that I thought your presentation was excellent in terms of helping to provide a kind of overview and a summation of what the major issues are and the major challenges that need to be addressed if the outcome is going to be something other than tokenism or something that could potentially be quite divisive, which would absolutely defeat the whole purpose of addressing this question. So I found your presentation to be extremely helpful.

Unfortunately, the answers aren't as easily forthcoming. I think you are absolutely right to stress that it is only through an open dialogue and a process that we have to think through that these can be addressed in a way that then can move us forward rather than bog us down in differences. Clearly there are going to be differences, that is a given. I mean all we have to know is the input from the political organizations and then some individuals from the Micmac community that have already been made helped to point out where some of those areas of difference are. That is no different from what can be said about other segments of the community, but it becomes extremely critical to find a process that can be a consensus-building exercise rather than a divisive process, it seems to me, if we are going to be able to make some progress.

Which brings me to the couple of questions that I would like to direct to Mr. Wildsmith. I realize that perhaps some of these questions fall in that area of the terms of reference you would like to go away and think about, do some further consulting, but perhaps it is helpful to throw out the questions anyway, whether or not you feel today able to express a clear position on them.

The terms of reference for this committee are for us to come up with the proposed terms of reference for the electoral boundaries commission and address ourselves to the issue, and I do not have this in front of me so I hope I am right in my recall, also the question of composition of the electoral boundaries commission and a third area, which at the moment escapes me, (Interruption) the timetable, sorry.

I am wondering, and perhaps just in terms of trying to respond to what I think is the reasonableness of the position you put forward, whether you would see any possibility that the electoral boundaries commission should be structured in such a way that perhaps the activities of the electoral boundaries commission are not, sort of, absolutely uniform in terms of addressing the issue of the Treaty Deputy or native representation at the same time that it is addressing the other issues of the realignment of boundaries, because it is clearly not about drawing boundaries. It is more a process issue and an issue that requires a consensus-building approach.

I am wondering whether you have any suggestions to make at this point about how the commission might be structured in such a way that there might be a sort of two-stage process, as it relates to the Micmac community, in other words, recognition that there needs to be a consensus-building exercise that takes place within the Micmac community before they may be ready to bring forward the positions that they would want the electoral boundaries commission to be taking under full advisement.

Would you see there being any possibility that the terms of reference of the electoral boundaries commission might be set up in such a way that this is a particular question that is to be addressed in a certain manner that we would try to propose in an outline of timetable process and so on, as well as those other issues that they will be addressing, perhaps, in a somewhat different manner? That would be one question. Secondly, and perhaps the more difficult one, is, what would you see as an appropriate composition for such an electoral boundaries commission as it relates to the interests and the concerns of the Micmac community?

MR. WILDSMITH: Is the last question about whether a Micmac person should be on the commission?

MS. MCDONOUGH: Well, that is obviously one question that arises and it would be useful to hear your views on that, but I think they are totally inter-related, the question of the process and the terms of reference for the electoral boundaries commission's work on the Micmac representation and the composition of the commission, itself, as it relates to that question.

MR. WILDSMITH: Not easy questions to answer and they are questions that require some element of detail and probably some element of instruction to me that I do not have today. It does appear to me that most of these questions are quite internal to the work of the boundaries commission and the work of the House, and issues over which it may be not appropriate for the Micmac community to really comment on.

The question of the composition and whether composition should include aboriginal representatives, there is certainly no harm in extending that invitation if the commission was of the view to do it. On the other hand, I am not sure that the view would be that it is desirable to be a direct participant, in terms of being members of the committee, that it is probably inconsistent with the kind of responsibility that the committee owes to the House, inconsistent with the give and take between the two communities to, in effect, have sort of representation on both sides of the table, if I can put it that way.

MS. MCDONOUGH: A sort of co-optation process?

MR. WILDSMITH: Yes, that is a definite possibility.

MR. CHAIRMAN: Could I ask a question here? Mr. Dwight Dorey, when he appeared before us, suggested that there be numerous representatives from the Micmac community on the commission, and was touching the basis of all the various Micmac organizations throughout the province and suggesting that we include a member or representative of each of those organizations on the electoral boundaries commission, that this be our recommendation.

If we were to reject that approach, but conclude that one representative of the Micmacs of Nova Scotia should be included, would we run a risk if we picked a person who was closely associated, for example, with the Confederacy of Mainland Micmacs? Would we run the risk of alienating the other two organizations? I am asking this question, just for an expression of view from you, as to whether that danger would exist, not saying that it necessarily would be the case, but would that danger be there?

MR. WILDSMITH: I think the short answer is, yes. I think that that would be a possible source of friction within the Micmac community.

MR. CHAIRMAN: Yes.

MR. WILDSMITH: Particularly so, since the process probably would involve this committee kind of picking a person out of the air and placing them on the commission, or at least the House doing so. That is, with a process that did not involve the Micmac community in coming up to select a Micmac representative.

MR. CHAIRMAN: Yes.

MR. WILDSMITH: So, I mean, as a process question, it just could not work without there being a consensus in the community as to who the person should be. So to not seek that consensus and then to appoint someone could be very divisive.

MR. CHAIRMAN: Very dangerous, yes. Alexa, I am sorry, I did not mean to cut you off.

MR. WILDSMITH: Could I just add one other comment to Ms. McDonough's question. I do not know whether it is necessary to specify the structure or timetabling of the Micmac question separately from the rest of the work of the commission. However, it does seem to me desirable to clarify that the electoral boundaries commission would be able to break into a subgroup or a subcommittee to carry on discussions or dialogue with the Micmac community. In other words, it would not really be appropriate and would be too time-consuming to have the entire commission meet with Micmac representatives every time a dialogue was to take place, so sort of breaking into subgroups for discussions, work and then bring things back into the commission. That would be more the way I would envisage the process working.

MR. CHAIRMAN: Ross.

MR. ROSS BRAGG: Just a couple of points and one question that I wanted to pose. Mr. Wildsmith, when you first started your presentation and you posed to us the questions that we have been asking, like elected or appointed, how the process works, do they have dual voting rights and so on, a shudder of fear went through me, thinking, these questions are still very big and they have not been answered. But I have sensed, as I pondered over it, I think that maybe those are questions for the commission, not for us. So maybe that is something that we do not have to get bogged down in. Yes, they are very important, but I think it would be wrong for us to waste our time in saying, well, how do we address those when, in fact, it is something that the actual commission should deal with.

Secondly, the thing that troubles me or concerns me is the process. Alexa spoke about it. I am really concerned about the process. We know, for instance, or I think the consensus is, we want to have somebody of the aboriginal community on the select commission. That, I think, was one of the original guidelines that we talked about, is having somebody sit on the actual commission from the community.

MR. CHAIRMAN: . . . there should be a representative of the black community on the commission. That is in our terms of reference.

MR. BRAGG: Okay.

MR. CHAIRMAN: The House has expressed its approval of the principle that there should be minority representation, but in this case, that the representative be from the black community. There is no directive, Ross, as you will recall, from the House indicating that we should recommend a Micmac representative on the commission.

MR. BRAGG: I guess you are right, Mr. Chairman, but I think that some of the native groups that were here made that suggestion.

MR. CHAIRMAN: True. That is right.

MR. BRAGG: I guess maybe I have confused the two. But I personally believe that it is a good idea, that perhaps there should be some people on the commission, or one. I noticed that Dwight, I think, suggested more than that. But that part of the process concerns me. We talked a moment ago about, should we appoint somebody or should the commission appoint somebody, and the chance that that would cause a problem.

How do we go to the Micmac community of Nova Scotia and say, this commission is going to be set up and there may be an opportunity that somebody in that community is going to sit on it? How do we get to that point where we can say, will you people give us somebody to avoid a conflict or a problem? Would your communities be able to come up with an appointee or a nominee to sit on the commission if that was to happen, and that would avoid it looking like the commission picked somebody that may not sit well with the rest of the communities, the different groups? Is that a possible alternative?

MR. WILDSMITH: It seems to me that if I was sitting in your shoes, which I am not quite, grappling with that question, I think the way that I would handle it would be, number one, to extend the invitation and to extend it to each of the three main political organizations, that is, through each of those three organizations. If your position was that there could be three Micmac representatives on the commission then that would sort of solve the problem and you would ask for one designated by each of the three organizations.

[11:30 a.m.]

However, I think the first question you should ask is whether they wish to have a seat on the commission. My inclination would be to say that if you do not get an unanimous response then there should be no seats. In other words, the position should be if all say, yes, then proceed, but if one says, no, then you would probably avoid more friction by having no representative than by having one or two and not three.

I am sort of prefacing those comments, or putting them in the larger context of saying that the style of operation of the commission, I think, really should be one of the commission dialoguing with the community. Therefore, a concern that if the Micmac community is sitting on both sides of the table that it is kind of awkward to have a dialogue.

MR. CHAIRMAN: Am I correct in concluding from what you are saying that as long as there is a respect for the process of consultation and that there is a directive to the commission that it consult broadly with the Micmac community and the representative Micmac organizations, that it would not be necessary to have direct Micmac representation on the commission?

MR. WILDSMITH: The process I am envisaging, I am not quite sure if it was captured in the way that you described it, is that the commission would enter into a dialogue with representatives of the Micmac community, that is, the commission would not go into the Micmac community itself but would leave consultations to be internal to the Micmac community. In which case, the commission would dialogue with representatives from the Micmac community and under that model no need for Micmac representatives to be on the commission. Because, after all, the commission's ultimate job is to report back to the House.

MR. CHAIRMAN: I do not want to cut anybody off but we do have to hear from Mr. Weagle and I want to remind everybody that the House does sit at 12:00 p.m. It is now getting on for 11:35 a.m. We have given Mr. Wildsmith a little longer than has been our normal time. So, just to wrap it up, Ross.

MR. BRAGG: From your perspective, and you probably have more insight into this than any of us, who should we be dialoguing with and who should the commission, once it is set up, dialogue with, the three groups that you discussed earlier or the 13 chiefs? Give us advice.

MR. WILDSMITH: Well, in a way I think it depends on what the purpose of the dialogue is, but I would say primarily the three political organizations. In some circumstances and I think it is appropriate to communicate with the 13 chiefs and in some circumstances with the Grand Chief, that is with the Grand Council, which is another institutional structure we have not really talked about.

MR. CHAIRMAN: Noel Knockwood was here and he indicated in his presentation that he was speaking on behalf of the Council of Chiefs because the Grand Chief was ill and was not able to be here personally. So we have had input from the chiefs.

MR. WILDSMITH: I should say that that Grand Council is not a Council of Chiefs. It is a different structure completely.

MR. CHAIRMAN: Yes. I just have one quick final question. You mentioned the tripartite process and indicated that it has worked in other areas. Do you see any role at all for federal involvement in this process that we are going through? Is there any need for it, any reason, any rationale for it?

MR. WILDSMITH: Not based on anything that has occurred to me or in any of the discussions that we have had internally on this issue. Some issues we dialogue directly with the province, some directly with the feds and some have a combination of the two. This seems to be purely with the province.

MR. CHAIRMAN: Yes, okay. Guy.

MR. GUY LEBLANC: Yes, Bruce, would you agree that maybe the native community would want to consult with regard to the Indian Act. That would be the only involvement, really, that would come into discussion. It would not be something that we would want to involve in the terms of reference of this provincial body. I mean they might want to refer to the Indian Act in the federal context to see how that will be affected by their participation in this process but not necessarily part of the terms of reference of this commission.

MR. WILDSMITH: Yes, if there was some connection to the Indian Act, then there may be some federal input but at the moment I do not see it.

MR. CHAIRMAN: Quickly please, Alexa.

MS. MCDONOUGH: I have another brief question. It would appear that the political organizations in the Micmac community are no different from all the other political organizations in Nova Scotia in the degree to which women are under-represented. I know there are some women chiefs but very much a minority and very few women in representative positions in the native organizations. I do not wish in any way to suggest meddling in the internal matters, at all, of those political organizations but I guess my question is whether you think in view of that it is warranted to suggest that there is a fourth political organization with whom there should be some dialogue, namely the Nova Scotia Native Women's Assembly?

MR. WILDSMITH: I think the short answer is yes, to that. On quite a number of occasions, invitations have been extended to that organization. I am not sure if it is particularly for that reason or some other one, but it is the case that they are often invited to comment or send representatives. Just to clarify, I think it is correct to say that there are not many women involved in native politics in Nova Scotia but I think we would be remiss to neglect the important work of Dr. Viola Robinson who is now the President of the Native Council of Canada and her daughter Deborah Robinson, who is Chief of the Acadia Band.

MR. CHAIRMAN: Good. Thank you very much, Bruce. Perhaps you and I could have a little private discussion afterwards as to how long you think it might take for you to be able to come up with the suggested terms of reference that the committee has requested.

MR. WILDSMITH: Sure, why don't I stay around.

MR. CHAIRMAN: If you would, I would appreciate that. We do want to hear from Mr. Weagle and we do have some time constraints in that regard. So thank you very kindly for coming forward and I will now call upon Mr. Weagle to come forward if he would, please, and make his presentation to the committee.

MR. ANTHONY WEAGLE: Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Weagle. I should introduce Mr. Anthony Weagle. He is a private citizen from South Brookfield in Queens County and has asked to come and present his views on our terms of reference to the committee. We welcome you, Mr. Weagle, and look forward to hearing from you.

MR. WEAGLE: I did not think I would get here but I live near an Indian reserve and I have had to check a few matters before I got my facts straight, so I thought I would tell you.

At present, there are 52 seats in the Nova Scotia House of Assembly. The select committee checking into the composition of the provincial boundaries commission on elected redistribution feels one additional member would be an advantage if the Micmac seat was created. I disagree. No Micmac seats should be created at the provincial level of government but Micmac seats must be created at the municipal level of government. Consequently, how can one Micmac seat serve 13 band councils scattered throughout the province?

Second, if a Micmac seat is created, that it must be non-political. If government creates one Micmac seat, then government may as well create another seat for the Jehovah's Witnesses. They do not believe in government or that vote in any federal, provincial or municipal election. On the other hand, creating Micmac seats at the municipal level of government would be extremely useful to the Micmac people. Furthermore, they need an education, better living conditions, better economic standards. If fully elected school boards are a reality, then the Micmac must have a better educational opportunity, including studies at the university level. Micmacs must have into this municipal level of government through seats via municipal and school board elections.

The Donald Marshall Report influenced the idea of a Micmac seat but if one follows the events leading up to Mr. Marshall's problem, these problems were created at the municipal level of government. Consequently, Mr. Marshall and all Micmacs living in Nova Scotia must receive municipal services from all municipal units except one service, welfare. They receive enough welfare-type of assistance from the federal government. Instead of receiving welfare, they want jobs and a better standard of living.

Maybe creating a Micmac seat is one step in the right direction but one problem is being overlooked. This is a racist problem and the most famous phrase used today is you, the Micmac Indian, does not pay taxes. In my opinion, this is a constitutional problem which must be solved first before Micmacs have their seats created at all levels of government.

Paying taxes is one difference between the other minorities such as blacks and Acadians. Acadians want to save their language and culture. The blacks want to do the same, especially their culture. Part of this culture is using their hands and language to make a living. There are no tomorrows left because brain power is part of our future. Creating provincial seats for a minority group will not let them use their hands to make a living or to speak a second language. As you know, freedom of education and language is not part of our Charter of Rights and Freedoms.

Furthermore, the need for boundaries that address the communities of interest in the composition of the House, including the Acadian and black communities are small and under-populated. To be truthful, these communities are simply overgrown municipalities and the main reason for them to be part of our system of municipal government. Their public affairs are different and petty but there are far too few individuals of ability and devotion to administer them. To govern such tiny communities separately, with the elaborate organization of a provincial seat in each would simply invite expense, inefficiency, corruption and low profile. The remedy is to unite these communities in some real consequence and genuine dignity.

Finally, free at last. The importance of having a person from a minority group serve on this provincial boundaries commission, on this occasion to be a person from the black community. This black individual should rephrase the words of the late Martin Luther King. Yes, I have a dream, he proclaimed, to an audience beyond the Red Chamber of Province House, beyond Halifax, to the great majority into whose hands the future of justice in Nova Scotia lay, a dream that one day the province will rise up, live up to the true meaning of its creed. We hold these truths to be self-evident, that all men are created equal.

I have a dream that my children will one day live in Nova Scotia where they will not be judged by the colour of their skin but by the content of their character. I have a dream that we will be able to speed up that day when all God's children, black men, red men, white men, Acadians, Jews, Gentiles, will be able to join hands and sing the words written down by our folklorist, Dr. Helen Creighton, namely the Nova Scotia Song. Thank you.

MR. CHAIRMAN: Thank you very much, Mr. Weagle. Any member of the committee have any questions to ask of Mr. Weagle concerning his presentation? Guy?

MR. GUY LEBLANC: I would have to make a comment. I was not going to make any comments on this one but the fact that the Acadian communities are simply overgrown municipalities and their public affairs are different and petty, I take particular insult to that kind of comment being made at a public presentation because I represent a majority francophone population in this province and I do not consider their public affairs as different or petty.

MR. WEAGLE: No, no.

MR. GUY LEBLANC: I am a Nova Scotian first and I take particular insult to these kinds of comments and I want to make that point very clear for the record.

MR. WEAGLE: There is a difference. Acadians were expelled and in Quebec, they were captured, different and so on, as difficult.

MR. CHAIRMAN: Any other questions or comments of Mr. Weagle? Alexa.

MS. MCDONOUGH: Mr. Chairman, I just want to add my brief comment for the record. Perhaps I have misunderstood the point that Mr. Weagle is making but I do find it offensive and perhaps it is something that you would want to clarify, for you to suggest that there are far too few individuals of ability and devotion . . .

MR. WEAGLE: Well again you go back. It has to be education and you want to tap into that municipal level.

MS. MCDONOUGH: I guess the point I would make is that I think there are many individuals . . .

MR. WEAGLE: You are right, yes.

MS. MCDONOUGH: . . . of ability and devotion whose participation is being blocked and whose contribution is not being made and that is why we want to try to address this issue.

MR. WEAGLE: Right, but again, I think you have to tap into the municipal level of government and once they can tap in, you have to upgrade that standard and then hopefully, it is a problem that you have to address. I do not know how, it is very difficult. Again, I agree but again, as I said before, these standards have to be raised somehow.

[11:45 a.m.]

MS. MCDONOUGH: Perhaps we just need to be sure that everybody has an opportunity to participate equally on all levels.

MR. WEAGLE: That is right, yes.

MR. CHAIRMAN: Our responsibility, Mr. Weagle, and I do not mean to cut you off, but we have to deal with the provincial level and that is our mandate. The Legislature, in the resolution that established this committee, has expressed its viewpoint that there should be a separate seat for the Micmacs. Now your goal that they should also be involved in municipal politics is a laudable one but one that we do not get directly concerned with at this stage.

MR. WEAGLE: Also, again, they say, we do not pay taxes, this is what they have told me at the reserve, and this is one of the problems that they have and is their main concern.

MR. CHAIRMAN: Well these are matters that will be discussed and debated in other forums. Our responsibility, as you know, is just to deal with the question of a seat for the Micmacs. Any other questions or comments for Mr. Weagle?

Thank you, sir, we appreciate your input. Thanks for coming.

Now that concludes the public presentations to the committee and Mrs. Kelly has advised me that Mr. Akintunde A. Adekayode has been in touch with her and wishes to make a written presentation to the committee. That will be coming through by FAX tomorrow and it will then be circulated to the members of the committee. He will be making his submission on behalf of the Pan-African Development Society and he belongs to a number of other black organizations in the community. So he will be making a written submission but will not be appearing at a public meeting of the committee.

I will be talking to Mr. Wildsmith about a timeframe within which he thinks he could come back to us with a suggestion from the Union of Nova Scotia Indians as to what might be appropriate guidelines with respect to the Micmac seat and appropriate directions that we can give to the commission. I am in the hands of the committee now.

We have already gone by our deadline and I think justifiably so but still I am hopeful that we might be able to conclude our work by the end of next week. With that in mind, I would like members of the committee to give consideration to the three points that we have to deal with. One, the composition, and we are talking here about names of individuals who would be qualified and appropriate for service on an electoral boundaries commission.

Secondly, the terms of reference, and here I should advise the committee that I have had a discussion with our legal advisors and asked them to come up with some suggestions for us based, in large measure, on the decision of the Supreme Court of Canada in the Saskatchewan reference so that we will not run any danger of directing the commission to work in a way that would run counter to the legal requirements under which they have to operate. I hope to have that by very early next week.

The third thing, of course, that we have to direct our minds to is the timeframe for the commission. We have had some helpful input from Mr. Wildsmith in that regard but I think we are all of the view that the commission will have to hold hearings throughout the province and do a broad consultation, not only with the Micmac community but with a lot of interested people across the province. So members of the committee should give some thought to what they believe an appropriate timeframe for that to take place.

I think there is also a general view that the commission should report, in time, that its recommendations can be responded to by the Legislature prior to the next election, unless events overtake us in the House and other things intervene and it is not possible for the House to come up (Interruption) Well, speculation is very interesting. Paul.

MR. PAUL MACEWAN: I hope I will not be accused of obstructionism if I say a few words now.

MR. CHAIRMAN: Not at all.

MR. MACEWAN: One of the greatest concerns you are going to have, in my view, is the form that the final report of the boundaries commission should take. It ought to be in the form of a proposed amendment to the House of Assembly Act or at least the draft of one, in terms that the new constituencies have to be delineated by the commission. They cannot come back simply saying, well in Halifax County we recommend that there be 18 seats and throw the ball back to us. Their job is to delineate the actual boundaries beginning at a point 430 feet northwest of Senator's Corner and thence 18 degrees northeasterly and so forth. That is the biggest job they have to do.

I am not trying to make a pitch for the status quo, but the more you leave the existing structure intact, the less you complicate their work and the more quickly you can get back a report that will address those specific problems that require action and not complicate matters. I just make that as an observation.

MR. CHAIRMAN: Well, it is a valid observation in a way except that the difference, in my view, that prevails at the present time compared to the work of the earlier commission, the last full-scale commission that considered boundaries, is that the Charter of Rights has come into play. We have to be very, very cognizant of that fact. I think we have to bear that in mind when we instruct a commission as to how it is going to carry out its work, that the factors that have been identified by the Supreme Court of Canada as the legal matters that have to be taken into account are items that we are going to have to direct the commission to direct its mind to when it carries out its work.

MR. MACEWAN: There is no question of that, Mr. Chairman, but still notwithstanding all that, what I said remains a valid consideration.

MR. CHAIRMAN: That's true.

MR. MACEWAN: The more you complicate it, the more time it is going to take and the more you have consultations and additional meetings with special groups and so forth, the thing could be tied up eternally. It may be possible that we may want to ask the commission to look at splitting their work into different sections, to first look at a general redistribution of the 52 seats, including the black seat as part of that package and to address the other question separately, I do not know. If the redistribution of the 52 seats is held up on account of the 53rd, I do not think that is the outcome that you want to see happen.

MR. CHAIRMAN: Well, no, it is not. I am encouraged by what Mr. Wildsmith had to say this morning, that if the Micmac community can work towards a consensus and determine whether such a consensus can be achieved by no later than the end of September, then the work of the commission, which I always envisaged would go beyond the end of September, could be carried out and work could be done on the incorporation of the Micmac seat into the recommendations of the commission while at the same time, the other important aspect of the work, namely the delineation of boundaries.

In this regard, Paul, with respect to the delineation of boundaries, I have had communications from individuals who are in the mapping business who indicate that with modern technology, this can be done and done much faster now than it was possible to do even 10 years or 11 years ago.

MR. MACEWAN: Well, I do not want to hold our discussions of next week this week but I think your friends in the mapping business will agree that county boundaries form a very integral part of the mapping process.

MR. CHAIRMAN: That is right. I envisage that the maintenance of the integrity of county boundaries will be a factor that we will suggest to the commission that it should take into account. How much weight . . .

MR. MACEWAN: I would be pleased if that could be done.

MR. CHAIRMAN: . . . it can give to that and still satisfy the requirements of the decision of the Supreme Court of Canada will be a question for the commission itself to consider. But I think that that may well be a factor that we can include.

MR. GUY LEBLANC: I would just like to suggest something to the committee with regard to the Micmac community. I think we have pretty well established that, I do not know if we have given any time for Mr. Wildsmith to report back to the committee with his terms of reference.

MR. CHAIRMAN: We have not, although he understands that it is an urgent matter.

MR. GUY LEBLANC: Okay. Then I might suggest that maybe by next Wednesday if that is at all possible.

MR. CHAIRMAN: I was going to ask him if he could do it by Tuesday, because that is when I want to have the next meeting of the committee.

MR. GUY LEBLANC: The other thing is, I would like to think that in order for us to appoint somebody, we are going to have to have some names and I am strongly in favour of consulting the community, the three political organizations, in order to have a name. I know there might be some difficulties in coming up with one name, but if that is possible, that would be ideal as far as I am concerned, to sit on the commission. Grant you, we have not made that decision, the composition of the board.

MR. CHAIRMAN: That is why I am suggesting that the members of the committee be prepared to suggest names probably at the next meeting, next Tuesday. But I think we also have to decide on the size of the commission, and here again, we may have very divergent views. My own view is that the smaller the commission, the better able it will be to carry out the work it is going to have before it.

If, for instance, we decide or try to give representation to a lot of interest groups, to all the political Parties, to groups that are interested in this thing, we may end up with a very unwieldy commission and it will be, in my view, extremely hard for a commission of 11, 12 or 13 people to schedule public hearings in Sydney, Port Hawkesbury, Halifax, Truro, Yarmouth or wherever. They are going to have to travel around the province and it is a lot easier for 5 or 6 people to do that than it is for 11, 12 or more to do that.

MR. GUY LEBLANC: May I finish my suggestion, Mr. Chairman?

MR. CHAIRMAN: Sorry, yes.

MR. GUY LEBLANC: My suggestion would be that we invite immediately and if we could agree that we will be looking at having a Micmac representative on the commission and we stop at the principle of one, we could decide at a future date, maybe it will be more than one.

MR. CHAIRMAN: I am concerned about this, Guy, I do not want to get into this now. If we heard well what Mr. Wildsmith said, to have one Micmac representative would involve the Micmac community engaging in a very broad process of consultation and discussion among themselves.

MR. GUY LEBLANC: That is why I would like to see it initiated so that that process starts now.

MR. CHAIRMAN: Well, hold it now. If we do that, then we are going to delay our own work considerably. Let's not get into it now, we have to go to the House.

MS. MCDONOUGH: I just want to make sure that we are clear on what we are saying here because it seems to me if our concern is undue delay, it makes sense to deal with this question at the earliest date which is right now, rather than a later date when delay will be even more of a concern. I do not mean to put Mr. Wildsmith on the spot, but presumably in the exercise of coming up with some proposed terms of reference for the electoral boundaries commission at least addressing the Treaty Deputy concept, you will be consulting with the political organizations.

I wonder if it is fair to ask whether the question could be raised with them so that when Mr. Wildsmith brings . . .

MR. CHAIRMAN: Okay, we do not want to put Bruce on the spot. He cannot speak for all of the groups, he speaks for the union and he is a legal advisor to the union. I do not think we want to ask him to step outside of his . . .

MS. MCDONOUGH: Perhaps we could ask that he canvass the union on that question so that when he reports back, . . .

MR. CHAIRMAN: Sure, I think that is a fair request.

MS. MCDONOUGH: . . . he can indicate and that we undertake, you as chairman, to make contact with the other political organizations to raise the questions; firstly, do they want to be represented or do they want instead to be clearly on the other side of the table and; secondly, if they do want consideration of representation, have they names that they want to put forward or a process they want to suggest by which that decision might be made?

[12:00 p.m.]

I am wondering, in view of that fact that our terms of reference do include, in fact, the commitment that the electoral boundaries commission would include representation from the black community, whether the same very brief consultative process would not be in order. In other words, those black organizations that made presentations be asked . . .

MR. CHAIRMAN: We have been receiving representations from the black community. As I recall, we did ask the black organizations that appeared before us to make suggestions to us. In response to that we have received a number of suggestions which will be circulated to the committee, yes.

MS. MCDONOUGH: Thirdly, there certainly was representation from one of the Acadian spokespersons on this issue, as well. I think the same courtesy and invitation should be extended. That may have seemed implicit, but I am not sure it was explicit when we received that brief that the Acadian organizations that appeared be invited to address themselves to the same question.

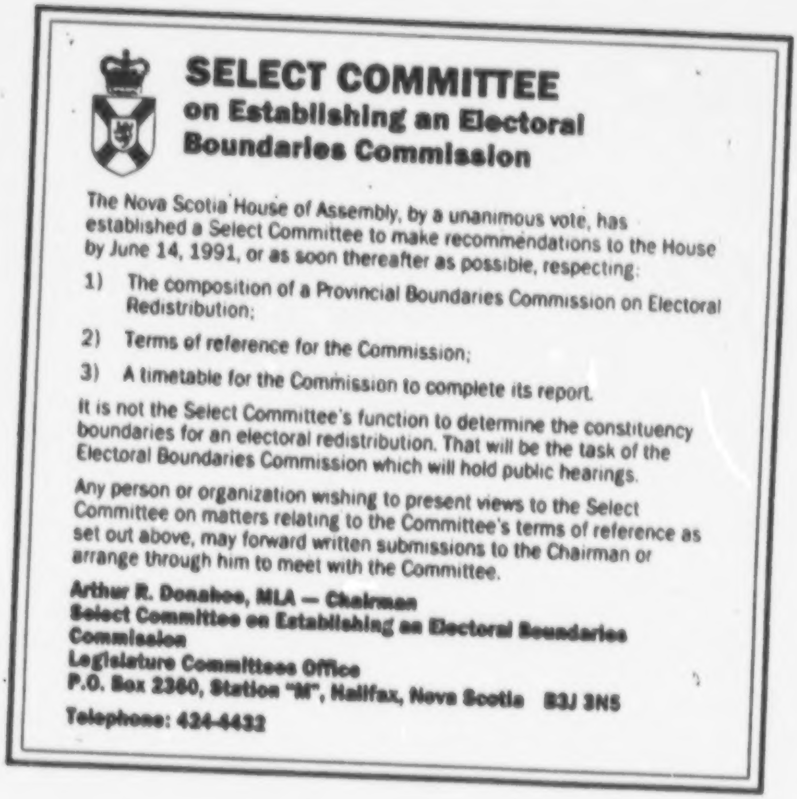
MR. CHAIRMAN: I will follow up on that. I am going to suggest 2:30 p.m. on Tuesday afternoon for our next meeting. (Interruptions) Well, we will have an in-camera meeting over in the Committee Room in the Dennis Building at 2:30 p.m. next Tuesday. Okay?

Thank you very much. The meeting is adjourned.

[The meeting adjourned at 12:01 p.m.]

APPENDIX "C"

NEWSPAPER ADVERTISEMENT CIRCULATED IN WEEKLIES AND DAILIES



SELECT COMMITTEE
on Establishing an Electoral Boundaries Commission

The Nova Scotia House of Assembly, by a unanimous vote, has established a Select Committee to make recommendations to the House by June 14, 1991, or as soon thereafter as possible, respecting:

1) The composition of a Provincial Boundaries Commission on Electoral Redistribution;
2) Terms of reference for the Commission;
3) A timetable for the Commission to complete its report.

It is not the Select Committee's function to determine the constituency boundaries for an electoral redistribution. That will be the task of the Electoral Boundaries Commission which will hold public hearings.

Any person or organization wishing to present views to the Select Committee on matters relating to the Committee's terms of reference as set out above, may forward written submissions to the Chairman or arrange through him to meet with the Committee.

Arthur R. Donahoe, MLA — Chairman
Select Committee on Establishing an Electoral Boundaries Commission
Legislature Committees Office
P.O. Box 2360, Station "M", Halifax, Nova Scotia B3J 3N5
Telephone: 424-4432

LISTING OF INDIVIDUALS AND ORGANIZATIONS CONTACTED BY LETTER BY THE CHAIRMAN OF THE SELECT COMMITTEE ON BEHALF OF THE COMMITTEE:

Mr. Dwight A. Dorey
President, Native Council
of Nova Scotia

Mr. Alex Denny
Eskasoni, Cape Breton

Mr. Alex Christmas
Scotia Indians

Mr. Bernie Boudreau, M.L.A.
Caucus Office

Mr. Harry Flemming
Halifax, Nova Scotia

M. Michael Legere
Federation Acadienne de la
Nouvelle-Ecosse

Mme. Murielle Comeau
Federal des Parents acadiens
de la Novelle-Ecosse

Ms. Yvonne Atwell
President, African Canadian
Caucus of Nova Scotia

Rev. Oqueri Ohanaka
Executive Director,
Black United Front of Nova Scotia

Mr. Dan Paul
Executive Director
Confederacy of Mainland Indians

Ms. Carolyn Thomas
Moderator, African United Baptist
Association

N.S. Association of Black Union of Nova
Provincial Organizations
c/o Black United Front

Nova Scotia Native Women's
Liberal Association
Truro, Nova Scotia

Mr. Wayne Adams
Executive Director,
Black Cultural Centre of Nova Scotia

Preston Political Coordinating Committee
c/o Rev. Darryl Gray, Dartmouth, N.S.

Rev. Darryl Gray, President
Cultural Awareness Youth Group

Ms. Joan Jones
Legal Action Education Fund

FORM LETTER REQUESTING PUBLIC INPUT

, 1991

Dear :

The Nova Scotia House of Assembly, by a unanimous vote, has established a Select Committee to make recommendations to the House by June 14, 1991, or as soon thereafter as possible, respecting:

1) The composition of a Provincial Boundaries Commission on Electoral Redistribution;

2) Terms of reference for the Commission;

3) A timetable for the Commission to complete its report.

It is not the Select Committee's function to determine the constituency boundaries for an electoral redistribution. That will be the task of the Electoral Boundaries Commission which will hold public hearings.

It has been suggested that you might be interested in presenting your views to the Select Committee, either by way of a written submission or by meeting with the Committee. If travel to Halifax is required, reimbursement for reasonable expenses incurred can be arranged.

Because by order of the House the Select Committee is operating on a tight time schedule, please let me know as soon as possible whether you wish to make a presentation to the Committee.

Yours very truly,

Arthur R. Donahoe,
Chairman

ARD/kep

cc: Committee Members

APPENDIX "D"

LIST OF PRESENTERS OF SUBMISSIONS (ORAL AND WRITTEN) TO SELECT COMMITTEE

June 6, 1991

Mr. Harry Flemming
Halifax, Nova Scotia

Mr. Dan Paul
Executive Director,
Confederacy of Mainland Micmacs
Truro, Nova Scotia

Reverend Darryl G. Gray
President
Cultural Awareness Youth Group
Halifax, Nova Scotia

Mr. Gerald Wills
Private Citizen
Halifax, Nova Scotia

June 11, 1991

Mr. Peter Alapin
Private Citizen

Mr. Davies Bagambiire
Afro Canadian Caucus of Nova Scotia

Mr. Jeremy Akerman
Former M.L.A.

Mme. Marie Comeau
Présidente
Fédération des Parents acadiens de la Nouvelle-Ecosse

June 13, 1991

Mr. Paul Comeau
La Fédération Acadienne de la Nouvelle-Ecosse

Mr. Alan Knockwood
Private Citizen

Mr. Noel Knockwood
Spiritual Leader
and
Captain of the Grand Council of the Micmac Nation
(Note: Mr. Knockwood also spoke on behalf of
Mr. Donald Marshall, Sr., Grand Chief of the Grand
Council of the Micmac Nation.
Mr. Marshall was unable to attend this hearing due to illness.)

Mr. Dwight A. Dorey
President
Native Council of Nova Scotia

June 20, 1991

Mr. Anthony Weagle
Private Citizen
South Brookfield
Queens County, Nova Scotia

June 25, 1991

Akintunde A. Adekayode
Panafrican Development Society

A. R. MacKillop

Mr. Bruce H. Wildsmith
Legal Advisor
Union of Nova Scotia Indians
(preliminary brief submitted June 20, 1991)

APPENDIX "E"

WRITTEN BRIEFS PRESENTED TO SELECT COMMITTEE

June 6, 1991

Reverend Darryl G. Gray
President
Cultural Awareness Youth Group
Halifax, Nova Scotia

Mr. Gerald Wills
Private Citizen
Halifax, Nova Scotia

June 11, 1991

Mr. Peter Alapin
Private Citizen

Mr. Davies Bagambiire
Afro Canadian Caucus of Nova Scotia

Mme. Marie Comeau
Présidente
Féderation des Parents acadiens de la Nouvelle-Ecosse

June 13, 1991

Mr. Paul Comeau
La Fédération Acadienne de la Nouvelle-Ecosse

Mr. Noel Knockwood
Spiritual Leader
and
Captain of the Grand Council of the Micmac Nation

Mr. Dwight A. Dorey
President
Native Council of Nova Scotia

June 20, 1991

Mr. Anthony Weagle
Private Citizen
South Brookfield
Queens County, Nova Scotia

June 25, 1991

Akintunde A. Adekayode
Panafrican Development Society

A. R. MacKillop

Mr. Bruce Wildsmith
Legal Advisor
Union of Nova Scotia Indians
(preliminary brief submitted June 20, 1991)

PRESENTATION TO THE NOVA SCOTIA HOUSE SELECT COMMITTEE ON THE REDISTRIBUTION OF LEGISLATIVE BOUNDARIES

** Submitted by Reverend Darryl G. Gray, Chairman
Preston Political Coordinating Committee

June 6, 1991

Opening Remarks

To the Chairperson of this Committee, Mr. Art Donahue, and to the other honourable members, on behalf of the Preston Political Coordinating Committee, and with the approval of the Board of the Cultural Awareness Youth Group of Nova Scotia, I thank you for this opportunity this afternoon to make this brief presentation on their behalf.

I would first like to call your attention to the very well written publication published on behalf of the Nova Scotia House of Assembly by the Nova Scotia Information Service, which reads, "Within the grey walls of Nova Scotia's Province House lie the bases of Canadian democratic freedom...A bronze tablet at the entrancway commemorates 'the convening of the first General Assembly of Nova Scotia which met for the dispatch of business at the Court House at Halifax on October 2nd, 1758'. This was the first assembly of elected representatives in Canada.

The representative government of 1758 was the first big step in the evolution of our democratic institutions. But oddly enough, there were still some things to be desired: Voters had to own freehold property, be 21 or over and of course, be British. In time with the religious intolerance of the period, Catholics were not allow to vote, As for the "foreign Protestants" of Lunenburg, they were quickly naturalized to ensure eligibility.

Thus the first Legislative Assembly in Canada was elected by the people of Nova Scotia. 22 original members, with very obvious characteristics."

I read this for the information of those who ask the question, What is the "premise" for our action? Why do we, the province of Nova Scotia, have to lead the way on this issue? I submit to you because of our own history, because it was Nova Scotia who set the example, who laid the foundation for representative government in this country. And it is Nova Scotia who must begin, in this committee, the struggle to bring democracy to all people of this province, Black and White, and Native, and Acadian.

Let us make our intentions clear. We, Black people, in the Prestons, and throughout Nova Scotia, must, and will have "political equality". We want our one person - one vote not given to us, but guaranteed to us, and we don't want it fed to us in teaspoons over another couple of hundred years.

Today, because Black people do not have "direct" say-so as to who will represent us in these great chambers, the Legislative Assembly is dominated by white-males, who according to the Charter of Rights and Freedoms are not elected in a fair or legal manner.

What is your premise, I submit Mr. Chairman, that we as Nova Scotians, Black, white, native, Acadian, male, female, rich, poor, farmer, miner, Liberal, New Democrat, and Tory must no longer permit our heritage to be dishonored before the country.

There may ever be those, Mr. Chairman, who will say, What more will the Blacks expect if they gain such rights as integrated schools, affirmative action, access to economic opportunities, voting rights? We they, like Oliver Twist, demand more?

What is even more amazing than the question of premise, is the assumption that society has the right to bargain with Blacks for political equality. Some of the most vocal public servants of this province believe they have a valid basis for demanding that, in order to gain certain rights, the Blacks ought to pay for them out of the funds of patience and passivity which they have stored up for years. What these people do not realize is that gradualism and that moderation are not the answer to the great moral indictment that the lack of political representation causes.

What they don't realize is that its no more possible to be half a citizen, half free, than it is to be half alive.

The essential questions here are whether the legislative framework at issue infringes the voting rights guaranteed under section 3 of the Charter, and if so, whether the infringement is justified.

Section 3 of the Charter states, "that every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein." By the way, it is federal law, being overseen by the Court System that has protected the interest of the citizen, even if there are those who have a problem with the Charter, for what ever reasons you might have, it has been the personal and political salvation of Black people, primarily because it protects individual rights and freedoms.

Our democracy is based on a political system in which the will of the people is sovereign. In this country people govern themselves through their elected representative. The right to choose a representative is every persons portion of sovereign power, and as the court has stated, "more is intended than the bare right to place ballot in a box".

The right of suffrage is not a gift, but a guarantee. But this right can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise. The court has said that the "one person-one vote" rule is the guiding ideal in evaluating electoral distribution schemes.

As we in the Preston communities advocate for the designation of "community of interest", to include whatever variance is needed in designing a riding that would reflect our historical and cultural uniqueness. We would also urge that the committee acknowledge that this community was without question a victim, intentional or unintentional, of being denied access to the legislative decision making body of this province, through "gerrymandering".

The personal right to vote is a value in itself, and a citizen is short-changed if electoral abuses or distribution rules dilute that citizens's portion of "sovereign power".

In conclusion, decades of delay have passed since slavery was abolished, full citizen granted - yet today the heirs of slaves are not fully free. We have not been freed from the bonds of injustice; we are not freed from social and economic oppression; nor from political exclusion.

Legislative boundaries, as exist here in Nova Scotia, send the signals that Canada may not be a land so strong and free. It took the case in Saskatchewan, and action in New Brunswick to increase the call and the cries for equality, and now the cries are so loud that no one can choose to ignore them.

It is time for this committee, this province, to act. The fear of change is apparent. We must not limited ourselves to tokenism, a promise to pay what is owned, but to democracy, the final payment. We must move now, and not accept the attitude that time will heal all things. Time itself is neutral; it can be used destructively or constructively. Human progress never rolls in on wheels of inevitability; it comes through the tireless efforts of men and women working together, and without this working together, time itself can become an ally of the forces of social, or in this case, political stagnation.

You must use this time creatively, in the knowledge that the time is always ripe to do right. Now if you would please except the following recommendations for the establishment of the Electoral Boundaries Commission.

RECOMMENDATIONS TO THE HOUSE SELECT COMMITTEE ON THE REDISTRIBUTION OF LEGISLATIVE BOUNDARIES

SUBMITTED BY THE PRESTON POLITICAL COORDINATING COMMITTEE
Reverend Darryl Gray, Chairman

June 6, 1991

Areas of Concern

1. Composition of Electoral Boundaries Commission: Recommendated that the Commission be comprised of at least seven (7) members, one to be a member of the Black community; that the Commission members not be affiliated with a political party; and that appointments receive, at least, a majority vote of the Select Committee.

2. Terms of Reference: That the Commission be dictated by the findings of the Supreme Court of Canada, regarding this issue; that the Commission be governed by the Charter of Rights and Freedom, specifically the sections governing "equal political rights" - "one person - one vote"; and "affirmative action provisions".

That the Commission take into account "community of interest", specifically as it relates to the Acadian, Black, and Mic Mac communities. That the numerical deviation in determining the boundaries for "community of interest" areas range from 25 to 33 per cent, justified by the Charter's Affirmative Action provisions.

That the legislative boundaries be determined by population versus voter; the Preston Committee would also allow that the Commission look into the possiblities of boundaries based on the number of "eligible voters" in the proposed riding.

That the Commission acknowledge that members of the province's Black communities have been the victim of "gerrymandering", which has diluted the voting power of these communities, this "gerrymandering" has also been responsible for the lack of full political representation by Black residents/voters.

That the communities of Preston-Westphal be viewed as a "suburban community", with special community needs, and concerns that are not presently being represented by the current members of the legislative assembly due to rural and urban influences.

That the Commission mandate would supersede whatever Municipal boundary considerations exsist presently.

3. Timetable of the Commission: It is recommended that the Commission, in the best interest of both, government, and voters, complete their mandate (1) prior to the Opening of the Fall Legislative Session, 1991, or (2) before the "next" provincial election, which ever comes first.

4. It is also recommended that the House Select Committee conclude their mandate no more that two weeks following the three (3) weeks mandate that was given by the Legislative Assembly.

5. It is also recommended that the House Select Committee take into account a "person" to serve on the Electoral Boundaries Commission, and that this recommendation be given considerable weight, particularly due to the historical, population, and geographic factors of this area.

On behalf of the Preston Political Coordianting Committee, I would like to thank the Party leaders, members of this Select Committee, and other supportive parties in their efforts to work together to develop and ensure that all people in this province receive full and equal protection under the law.

Special Note: It should be reflected that in Number 5 , that the word "person" referes to member of the Electoral Boundaries Commision, appointed from the Black community. And that this committee recommend that "person".

In your job to comprise a boundaries commission on electoral redistribution and consult as many interested people as it possibly can, including persons in the Acadian, Black and Micmac communities, I feel that the select committee has failed to adequately advertise to the general public the purpose of this boundaries commission as outlined in **RESOLUTION 1681, PARAGRAPH (e) ITEMS I, II, AND III.**

I would also mention that terms and reference for the commission are to be set by the select committee. The final decision to give the three groups mentioned: Acadian, Black and Micmac Communities their own special representation should only be granted by a vote by the people of Nova Scotia. I would like to remind the select committee that they are to set guidelines and terms that are fair to all the people of the province which include other cultures and races. The only fair way is a vote by the people.

Mr. G. [illegible]

Peter C.Alapin, M.A., M.B.A.
1656 Robie Street
Halifax, NS B3H 3E7

The Honourable Arthur R. Donahoe
Chairman,
Selected Committee on Establishing
an Electoral Boundaries Commission
Halifax, Nova Scotia

My submission, is a submission of a private citizen who immigrated to this country 22 years ago and became a Nova Scotian, Canadian citizen, 17 years ago. This makes me Canadian and Nova Scotian by choice, one of those Canadians who is neither an aboriginal person, nor a member of "two founding" nations.

It is worth noting that neither the Acadian people, who have been here more than 350 years, nor our Black citizens who have lived in Nova Scotia for over 200 years, are usually considered as members of the "two founding" nations.

PART ONE: "SPECIAL" RIDINGS

Today, the population of the Province is mainly of British origin, but, as in Canada as whole, the proportion of people of British origin is shrinking and the proportion of people of other than British origin is steadily increasing.

In Canada as a whole this so-called "multiculture" population now constitutes more than 1/3 of the citizenry. The importance of this fact is that as time passes our population will be less and less homogeneous. In face of this reality, I suggest that the current strong suggestions to create Micmac peoples' riding, Black citizens' riding, and the Acadian ridings, are wrong and very dangerous.

It is my strong belief that all citizens of the Province should have equal representation in the Legislature. This means that the interests of Acadians, Blacks, and Aboriginal people, as well as the interests of new people settling in the Province, including a vibrant Buddhist community, and an increasing number of immigrants from Hong Kong, or my native Poland, etc., should be represented.

The creation of ridings designated by "origin" will lead to the creation of a system of different ghettos; this will lead to escalation of racial and religious disharmonies, in our friendly, peaceful Nova Scotia.

In simple terms, in our mobile society, people of a given origin, language or religion, will start to move to certain parts of the cities in order to elect first, its "own" member to city or county local government and then to the Legislature.

In this context I **suggest** that the terms of reference for the Provincial Boundaries Commission call for a study of the religious, linguistic, colour of skin and "country of origin" demographies of such cities as Los Angeles, Toronto, New York and Miami. I am sure that the eventual lessons from those places full of people living in ghettos will be helpful.

PART TWO: COUNTIES

My MA degree is in Political Economy. As an Economist, I can tell you not only that 48% of Nova Scotia's population live in three cities (Halifax, Dartmouth and Sydney), but also that urbanization of society all around the world is not slowing down. And, inexorably, in Nova Scotia urbanization remains an ongoing phenomenon. Already today over 50% of Nova Scotians live and work within 100 km radius of Metro (and most of them within one county!). The population growth can be observed not only around Metro, but also in the circle going from Bridgewater to Wolfville to Truro. This demographic reality is connected strongly to the economic reality. The natural resources usually geographically dispersed are losing importance to services and technological economic sectors, which are usually geographically concentrated around a few centres.

The consequence of this ongoing economic phenomenon for the electoral boundaries is very important. It is already practically **impossible in Nova Scotia to provide a separate MLA representation from every county without creating gross harm to the principle of democratic equality for those living in the "greater metro" area.**

We all read in the press last week the decision of the Supreme Court of Canada which in its essence announced that it is legal under the existing Charter of Rights and Freedoms to maintain serious inequity in the weight of Canadian citizens' votes. For many people this majority judgement is surprising and disturbing. I would like to suggest that Canadians should correct the Charter of Right and Freedoms to make illegal a system in which the vote of one citizen can be 50-60% more important than vote of another citizen. I am sure that many Nova Scotians agree with me -- and certainly do not want to see this sort of discrepancy in this Province.

The real, unfortunate and perhaps unintended net result of the Supreme Court of Canada decision is an "invitation" for the politicians to gerrymander electoral boundaries.

In order to avoid even the possibility of accusations regarding gerrymandering in Nova Scotia, I **suggest** that the Provincial Boundaries Commission on Electoral Redistribution be composed of 3 or 5 distinguished judges or civic leaders from other provinces.

PART THREE: ECONOMICS & "POLITICS"

Regardless which political party governs in Nova Scotia we hear accusations that:

- paving is done only in the government held riding;
- new industry is located only in the government held riding;
- bailouts of failing company X or Y is done, because " this is the riding of the Minister Z";
- a new school or a new hospital or other government funded institution is created in a given riding, because this is a payback for voting for the government;
- job creation initiatives "happen" only in the riding which voted for the government side; etc., etc., etc..

I am sure that at least some of those accusations are correct.

The public now seems to have a very negative attitude towards politicians, and many people consider politicians to be corrupt individuals who are purchasing votes with the taxpayers' own money.

It is my belief that at least some of the reasons for those opinions are beyond this or another individual MLA's behaviour. In reality, our system of elections almost obliges the MLA to try to optimise the well-being of the individual riding he/she represents (instead of the well-being of the Province itself).

This leads by itself to significant wastefulness of taxpayers money, construction of highways leading to nowhere, tens of small totally unused airstrips, many underutilized facilities etc. In simple economic terms: optimization of an economy of single small size riding does not create optimization of the Nova Scotia economy, on the contrary, it weakens the provincial economy as a whole.

Even if we would be able to develop each riding to its absolute optimal economic potential, the sum of the economies of those optimally developed small single ridings would be lower than the optimally developed economy of whole Province of Nova Scotia. Our electoral system leads MLA's to work not toward optimization of well-being of the Province and all its citizens, but toward making his/her best for own small constituency.

I **suggest** that in view of the serious financial situation this Province is facing currently, and in the years to come, Nova Scotians should attempt to reorganize the Provincial system toward the best possible use of our scarce financial resources.

Therefore, in my opinion the electoral system should direct and motivate each and every MLA to work towards the well being of the whole Province, and not towards the current first priority, the well being of his/her own riding.

PART FOUR: PROPORTIONAL REPRESENTATION

Our current system of electing MLAs in individual small ridings is based on the principal "winner-takes-all". We all know what this system created in New Brunswick: 42-43% of Liberal voters elected 100% Liberal Legislative Assembly.

For me and I am sure for many other Nova Scotians this development means that something is profoundly wrong with the system, since it does not provide effective representation for over 55% of population.

As a recommendation for the terms of reference for the Commission, **I suggest** careful examination of other electoral system than the system currently used in Nova Scotia. There have to be good reasons why a riding system like ours was abandoned in most countries of continental Europe decades ago.

The Province of Nova Scotia was the first British colony to receive responsible government in 1848. Even before that, Nova Scotia was the first part of Canada to have an Assembly, since 1758 elected by people, despite that the power was held by a governor chosen in London. Nova Scotia was one of Canada's original four provinces. In this sense, Nova Scotia and Nova Scotians lead the political development in this country.

I suggest that we can and we should continue our leadership in Canadian political development by changing our existing, ineffective electoral system and its inherent problems. Our modern times, dominated by fast computers and other communication systems, require a modern electoral system.

In my opinion, a proportional system, in which seats in the Legislature are divided proportionally to the percentage of votes obtained by a given political party, constitutes such a modern system. Of course we would have to establish rules eliminating representation supported only by very small group of voters, (ie. below 5% or so) in order to protect stability of the elected governments. Under such a system, now commonly in use in all parts of continental Europe (including its most prosperous and stable countries), each political party presents its program and its list of candidates during electoral campaign. Each party collects its own funds as a party and not individually. Each party is and has to be, responsible for its members behaviour and carries the consequences of inappropriate members' behaviour.

I suggest that under the proportional system of election our native people, our black citizens , Acadian population -- and each and every member of our society -- would receive better representation than they now have, and better than they will have in some new version of a winner-take-all riding system. Each and every vote would be equal, each and every citizen would count. Each and every political party would try to help the "forgotten" Micmac people, support economic and social development of our black population, and take care of the Acadian language and the total cultural heritage of Nova Scotians of different origins.

In effect, groups of society that are not well represented today would receive much better representation than under an artificial system of electing their "own" members. In practical terms, each political party will try to have members of minorities on its slate of candidates. It is my conviction that proportional electoral system could be much more effective in liquidating a patronage system, and would take better care of the development of the Nova Scotia economic and technological potentials than existing system does.

In this context **I strongly suggest** that the terms of reference for the Electoral Boundaries Commission call for examination of the possibility to create one, very large riding, the total Province of Nova Scotia.

Thank you.

Halifax, June 11, 1991

CANADA)
PROVINCE OF NOVA SCOTIA)
COUNTY OF HALIFAX)

PRESENTATION TO NOVA SCOTIA HOUSE OF ASSEMBLY SELECT COMMITTEE ON THE MANDATE AND COMPOSITION OF A PROVINCIAL BOUNDARIES COMMISSION

Submitted by: Davies Bagambiire

On Behalf of the Afro-Canadian Caucus
of Nova Scotia

June 11, 1991

PRESENTATION TO THE SELECT COMMITTEE OF THE HOUSE OF ASSEMBLY FOR NOVA SCOTIA ON THE MANDATE COMPOSITION AND TIMETABLE FOR A PROVINCIAL ELECTORAL BOUNDARIES COMMISSION

1. Honourable Chairman, Honourable Members of the Select Committee, Ladies and Gentlemen;

2. My name is Davies Bagambiire and I am a member of the Afro-Canadian Caucus of Nova Scotia and several other Black organizations.

3. I am here to address you on the issues placed before you by Resolution 1681 of the House of Assembly. While our views are not based on a scientific survey of all Black Nova Scotians, we believe that they are shared by many.

4. Your Committee has been charged with the responsibility of determining the composition of the Provincial Boundaries Commission, its terms of reference and mandate, and the timetable for preparation of its report. Before making any specific comments on these main issues, I would like to take this opportunity to make some comments of a general application.

The Political Nature of the Boundaries Distribution Process

5. The distribution of political boundaries is a political process. This may seem to state the obvious. Boundaries redistribution has far-reaching implications and consequences for the electors.

6. There is no doubt whatsoever that electoral boundaries in Nova Scotia became a pressing political issue partly because of the litigation that has been going on in Saskatchewan involving boundaries redistribution in that province. This litigation has now ended in the landmark decision of the Supreme Court of Canada, handed down on June 6th, 1991 on appeal from a decision of the Saskatchewan Court of Appeal, (Carter v. Saskatchewan).

7. The Supreme Court of Canada has now ruled that the boundaries complained about in the Saskatchewan reference did not violate Section 3 of the Canadian Charter of Rights and Freedoms. However, it has also loudly and clearly reaffirmed the necessity to consider factors such as community history, community interest and minority representation in order to ensure that legislative assemblies effectively represent the diversity of our social mosaic. For reasons of historic oppression and exclusion, the social mosaic of this province, especially the Blacks of Nova Scotia has not been effectively

represented.

Brief History of Oppression and Exclusion of Blacks from Political Process

8. It is an understatement to say that the Blacks of Nova Scotia have, for over the past two hundred years, been excluded from the political process in this province.

9. Blacks have been a common feature of this province since before Confederation. Matthew De Costa, a Black man, is listed among the settles of Port Royal in 1606. Between 1783 and 1791 about 5000 Blacks immigrated to Nova Scotia. They were part of the Loyalists who fought alongside the British Crown and had been promised land security and freedom for taking up arms against the rebels.

10. Between 1796 and 1800, a second major influx of Blacks popularly known as the Maroons came to this province. They were followed by the refugees of the post-1812 war era, and, in more contemporary terms, by the Caribbean Blacks who immigrated to industrial Cape Breton following the opening of the steel plant.

11. Regardless of whence they came or when they arrived, Blacks in Nova Scotia, young and old, male and female, have been subjected to untold racism and racial discrimination. Quite

clearly, they have had no meaningful or effective political representation, no political influence or clout and have been at the bottom of not only the racial and political ladders, but also the economic ladder.

12. The marginalization and exclusion of Blacks from the political process did not come about by accident. It was deliberate and racist to the core. The 1789 "Act for the Better Regulation of Elections" stipulated that "to be eligible to vote a potential elector had to have an income of forty shillings per annum in real estate, or a house on land he owned, or 100 acres of cultivated land." No Black was qualified and no Black was eligible as such.

13. The Common law, legislation, judicial attitudes, executive acts and conduct, and ministerial discretion have all acted to exclude us from the process and to deny us effective political power, leave alone economic influence.

14. It is against this background that I invite you to consider the very important issues that you face today.

Summation and Recommendations

A. Boundaries Commission

16. The House of Assembly has declared in Resolution 1681 its

support in principle for, among other things, the need for boundaries that address community interests in the composition of the House and the importance of having a member of the minority communities of Nova Scotia in the Boundaries Commission.

17. We fully endorse these principles. We make reference to the Supreme Court decision in Carter v. Saskatchewan, referred to earlier. This Committee and the Boundaries Commission to be created should be guided by community interests, community history and the desire to promote minority representation.

18. Furthermore, we suggest and recommend that the House of Assembly Act be amended to provide in a preamble the presence of the Micmac, Acadian and Black people as a constant and continuing presence in Nova Scotia, since the founding of the province.

B. Terms of Reference

19. We recommend that the terms of reference include the following:

    (i) Conduct a redistribution of the electoral boundaries of Nova Scotia in a manner consistent with the principle of effective representation, the Charter of Rights and the pronouncements of the Supreme Court of Canada on the matter;

    (ii) Carry out a redistribution of the said boundaries which, to the extent possible, would enable the

Black community of greater Preston and neighbourhood to elect a Black representative to the House;

(iii) Devise mechanisms to ensure that the Acadian Community continues to be effectively represented;

(iv) Advise on the process that should be followed to ensure that the First Nations people of Nova Scotia, the Micmacs, are effectively represented in the House.

(v) Devise a suitable preamble to the House of Assembly Act for the recognition of the Micmacs, Acadians, and Blacks of Nova Scotia as an original constant and continuing presence in Nova Scotia.

C. Timetable

20. We recommend that the Boundaries Commission be instructed to present its report on or before August 31, 1991.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Davies Bagambiire,
for ACCNS

FPANE

FÉDÉRATION DES PARENTS ACADIENS
DE LA NOUVELLE-ÉCOSSE

5426 PORTLAND PLACE
HALIFAX, NOUVELLE-ÉCOSSE
B3K 1A1

Téléphone: 425-2760
Télécopieur: 423-7460

Presentation to the Select Committee on Provincial Electoral Boundaries

June 11, 1991

Introduction

On behalf of the "Fédération des Parents Acadiens de la Nouvelle-Écosse (FPANE)", I would like to thank you for giving me the opportunity to present our views concerning the composition and terms of reference of the <Commission>, which has as its mandate redefining provincial electoral boundaries.

Undoubtedly, this particular question is of great significance for the Acadians of Nova Scotia and, therefore, requires special attention.

Today, we will give you a general overview of our expectations with respect to the composition and terms of reference of the "Commission".

Composition of the "Commission"

Regarding the composition of the "Commission", we recommend that it be comprised of a fair and equitable Acadian representation so that the interests of the Acadian community be taken into account when redefining electoral boundaries.

Terms of reference

With respect to the terms of reference of the "Commission", we believe it should be based on the Supreme Court of Canada's recent ruling in *The Attorney General for Saskatchewan - v - Roger Carter, Q.C. et al.* The decision states the following:

"The purpose of the right to vote enshrined in s. 3 of the Charter is not equality of voting power per se but the right to "effective representation". The right to vote therefore comprises many factors, of which equity is but one. The section does not guarantee equality of voting power.

Relative parity of voting power is a prime condition of effective representation. Deviations from absolute voter parity, however, may be justified on the grounds of practical impossibility or the provision of more effective representation. Factors like geography, community history, community interests and minority representation may need to be taken into account to ensure that our legislative assemblies effectively represent the diversity of our social mosaic".

The "Commission" should officially recognize "community interests", in particular, to the linguistic reality of the Acadian community as well as other factors such as minority representation, community history and geography. For this purpose, the "Commission" should clearly state that the definition of "community interests" includes the linguistic factor.

With respect to the redefinition of electoral boundaries, special consideration should be given to those ridings which now have the strongest percentage of Acadians, that is, Argyle, Clare, Inverness and Richmond. This being said does not exclude the other regions of Halifax-Dartmouth, Pomquet and Sydney.

We strongly suggest that the "Commission" hold regional public hearings so that Acadians throughout the province be heard on this fundamental question.

To this effect, the "Commission" should establish proper mechanisms to receive oral and written presentations in French from members of the Acadian community.

At this point, we would like to state that we are sensitive to the needs of other groups in Nova Scotia, in particular, the Blacks and the Members of First Nations.

Conclusion

We recognize the importance of this question for the political future of the Acadian community. It is for this reason that we intend to submit a presentation to the "Commission" next fall.

Presently, the Acadians of Nova Scotia are represented at the Legislative Assembly by three Acadians, a first in the province's political history. In the tradional Acadian ridings, it is possible for us to elect a representative who is a member of our community. This is of great importance for our survival.

In conclusion, we recommend that the Committee respect the rights protected by Article 3 of the Canadian Charter of Rights and Freedoms as well as the interpretation of the Supreme Court of Canada's recent ruling on this question.

With reference to the above, we ask that the "Commission" be mandated to redefine electoral boundaries in such a way that Acadians will still be able to elect members of their community so that their needs and interests be effectively reprensented in the Legislative Assembly.

Review of the Nova Scotia electoral boundaries

Presented to

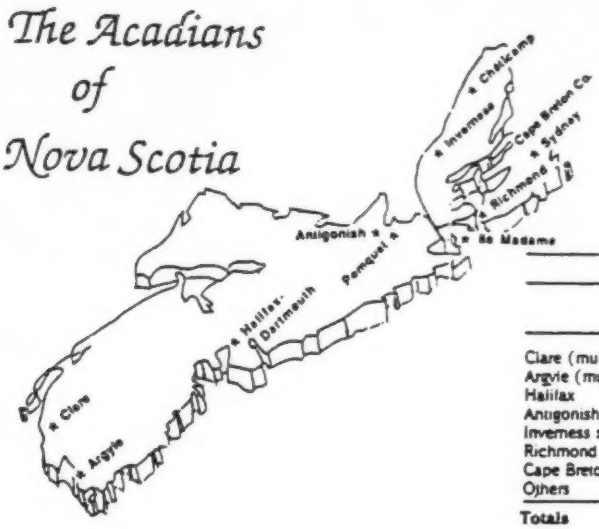
Mr. Arthur R. Donahoe, M.L.A. Chairman
and members of the Select Committee on
Establishing an Electoral Boundaries Commission

By the Fédération acadienne de la Nouvelle-Écosse
Thursday, June 13 1991

The establishment of a Commission to review the provincial electoral boundaries is of extreme importance to all Nova Scotians but it must be said that this process can have a far reaching impact on the Acadian population of this province.

We welcome the opportunity to appear before this Select committee of the legislature to express to its members, the concerns of the Acadian community in determining the terms of references for the Commission. Before discussing specific suggestions dealing with the terms of reference, the composition and other relevant questions of the Commission, we would like to take a few minutes to update committee members on the Acadian reality in this province.

The province's French speaking Acadian population is approximately 40 000. The table which follows identifies where they are located:


The Acadians of Nova Scotia

Population by area

	Mother tongue		
	French	French & English	Total
Clare (mun.)	6.105	1.040	7.145
Argyle (mun.)	4.615	845	5.460
Halifax	7.410	2.335	9.745
Antigonish	625	290	915
Inverness subv. A	2.845	500	3.345
Richmond	3.080	1.020	4.100
Cape Breton	1.100	460	1.560
Others	5.065	2.020	7.085
Totals	**30.845**	**8.510**	**39.355**

Source: Statistics Canada 1986

Presently, there are three Acadian members in Cabinet representing the provincial ridings of Argyle, Clare and Yarmouth. Argyle and Clare can be considered as Acadian ridings or at least have a greater chance of electing Acadian representatives. Yarmouth is a predominently English speaking riding with only 8 per cent French speaking. With this historical exception in Yarmouth it can be assumed that the chances of electing an Acadian is greatly diminished as the percentage of Acadians in a given riding gets smaller.

For the information of the Committee we include a riding profile for six provincial constituancies that have an important Acadian population.

With specific reference to the terms of reference to be given to the Commission it is important that the members be instructed to take a close look to effective representation and not limit its considerations to vote equity.

The very recent decision of the Supreme Court of Canada on the Saskatchewan electoral map clearly gives a new dimension to the whole question of voting power. The right to effective representation is given greater strength and gives the Acadian population strong arguments for guaranteed representation in the provincial legislative.

It is imperative that the Commission be instructed to consider the judgement of the Supreme Court of Canada in dealing with section 3 of the Charter of Rights and Freedoms. Determining provincial electoral boundaries based on equity alone would be wrong and against this milestone decision of the Supreme Court. Please find attached, part of the Supreme Court decision which substantiates our position.

On the composition of the Commission we feel that individuals knowledgeable and sensitive to linguistic and visible minorities of this province is essential in order to establish a climate of fair play and trust. The size of the Commission is unknown to us at this point, however we suggest that at least one person have a proficient use of both official languages of this country. We are confident that this requirement could be met by an Acadian member.

It is also our hope that the Commission will be asked to hold public hearings throughout the province and that a certain number be held with access to simultaneous translation to allow all members of the Commission full understanding of the Acadian reality in Nova Scotia.

We thank you for your attention and for having given this opportunity.

Fédération acadienne
de la Nouvelle-Écosse

The purpose of the right to vote enshrined in s. 3 of the *Charter* is not equality of voting power *per se* but the right to "effective representation". The right to vote therefore comprises many factors, of which equity is but one. The section does not guarantee equality of voting power.

Relative parity of voting power is a prime condition of effective representation. Deviations from absolute voter parity, however, may be justified on the grounds of practical impossibility or the provision of more effective representation. Factors like geography, community history, community interests and minority representation may need to be taken into account to ensure that our legislative assemblies effectively represent the diversity of our social mosaic. Beyond this, dilution of one citizen's vote as compared with another's should not be countenanced.

The history or philosophy of Canadian democracy does not suggest that the framers of the *Charter* in enacting s. 3 had the attainment of voter parity as their ultimate goal. Their goal, rather, was to recognize the right long affirmed in this country to effective representation in a system which gives due weight to voter equity but admits other considerations where necessary. Effective representation and good government in this country compel that factors other than voter parity, such as geography and community interests, be taken into account in setting electoral boundaries. Departures from the Canadian ideal of effective representation, where they exist, will be found to violate s. 3 of the *Charter*.

* Extrait de la Cour Suprême du Canada sur la carte électorale de la Saskatchewan

Population par circonscriptions électorales selon la langue maternelle

(Source: Statistiques Canada)

	Population totale	Diff.	Population française	Population anglaise	Population fran. et angl.	* Pop. totale française	% de la pop. française	Nombre d'électeurs	% de gens qui ont voté lors des dernières élec. prov.
ANTIGONISH									
1981	18 110								
1986	18 776	+3,55%	625	17 355	290	760	4,05%	12 733	88,90%
ARGYLE									
1981	8 949								
1986	9 055	+1,17%	4 615	3 580	835	5 047	55,74%	6 564	90,55%
CLARE									
1981	9 598								
1986	9 740	+1,46%	6 105	2 565	1 040	6 625	68,02%	7 299	91,62%
INVERNESS NORD									
1981	A								
1986	12 681	–	2 920	9 785	540	3 190	25,16%	9 152	87,10%
RICHMOND									
1981	B12 293								
1986	11 841	-3,68%	3 080	7 470	1 020	3 590	30,32%	8 474	89,54%
YARMOUTH									
1981	17 317								
1986	17 997	+3,78%	1 135	16 160	585	1428	7,93%	12 520	80,00%

* La population totale française est calculée selon la somme de la population française plus la moitié de la somme de la population française et anglaise.

A La circonscritpion Inverness Nord n'existait pas à cette époque. On retrouvait alors trois subdivisions: A, B et C.

B Nombre ajusté à cause de changement de frontière électorale.

GRAND COUNCIL OF MICMACS
MI'KMAWEY MAWIO'MI

MAIN OFFICE
38 Micmac Crescent
Sydney, Nova Scotia
Phone (902) 539-5116

GRAND COUNCIL
Donald Marshall
Grand Chief
Alexander Denny
Grand Captain
Simon Marshall
Putu's

CAPTAINS
Eskasoni
Michael F. Denny
Athanasius Sylliboy
Andrew J. Stevens
Walter Denny
Sydney
Charlie Herney
Wagmatcook
Roddie J. Pierro
Whycocomagh
Ben W. Sylliboy
Chapel Island
John D. Johnson
Afton
Tom Marshall
Pictou
Martin Sappier
Truro
Alexander Julian
Shubenacadie
Frank Nevin
Noel Knockwood
Ivan Knockwood
P.E.I.
Cyrus Sark
Nfld.
Michael Joe

CROSS BEARER
Raymond Stevens

HONORARY MEMBERS
Hon. Victor DeB Oland
Hon. Allan J. MacEachen
Hon. Jean Chretien
Duke Neilson
Bishop William E. Power
Evan Lloyd
Rev. Tom MacNeial
Gov. Gen. Roland Michener
Arch Bishop J.N. MacNeil
Hon. Robert Stanfield
Walter Higgins
Rev. A.J. MacLeod

A

PRESENTATION

TO

THE PROVINCIAL COMMISSION OF ELECTORIAL REDISTRIBUTION

BY

NOEL KNOCKWOOD, B.A.

SPIRITUAL LEADER AND CAPTAIN OF THE GRAND COUNCIL

OF THE

MI'KMAQ NATION

HALIFAX, NOVA SCOTIA

JUNE, 1991

Brothers and Sisters:

Today is a great day for our council, because the creator has un-plugged our ears and opened our eyes so that we will see and understand each other. Somewhat like in ancient time, my people always spoke to the God of their understanding prior to their deliberations. Presently, I will exercise that freedom, as I pray to the Creator.

Grandfather, Grandmother God, you are the ultimate force that created this universe and all life within. I summon thee from the far places into our present awareness. Oh Great Spirit who are before all else and whose presence is felt in every object, person and place, I cry onto thee. Teach us, that s/he who is wise, tempers justice with mercy. S/he who is strong is also kind, s/he who is truly brave matches courage with compassion. Today, as the Red stand before the yellow, Black and white people, I pray that you will enter into their souls so that they will understand our purpose. Thank-you, now I will read our National Declaration of the First Nation:

> We, the original Peoples of this land, know the Creator placed us here.
>
> The Creator gave us our laws that govern all our relationships to live in harmony with nature and mankind.

The Laws of the Creator defined our rights and responsibilities.

The Creator gave us our spiritual beliefs, our Languages, our culture, and a place on Mother Earth which provided us with all our needs.

We have maintained our freedom, our Languages, and our traditions from TIME immemorial.

We continue to exercise the rights and fulfil the responsibilities and obligations given us by the Creator for the Land upon which we were placed.

The Creator has given us the right to govern ourselves and the right to self-determination.

The rights and responsibilities given to us by the Creator cannot be altered or taken away by any other nation.

"Mankind was created, according to the writings of Dr. Marie Batiste, Mi'kmaq person herself for the Union of Nagooset (sun) together with earth and all things. The shadow of life placed within man held the beauty and spirit of all Living things. All of Nagooset's (sun) each having it own role in maintaining harmony and life on earth."

Before the Norseman came, we were here. Before the French or the English arrived, we were here. Before Canada was born, we were here and we will always be here according to the will of our Creator. It was my Mi'kmaq people who gave your ancestors the rights to stay on Mi'kmaq land. We now seek a place in your house so that we can represent ourselves in a true democratic fashion like ti once was among our people.

From each wigwam, from each settlement of kinsmen and their dependents, the Grand Council recognized one or more Captains (cap'ten) to show the people the good path, to help them with the gifts of knowledge, to sit with the whole Santeoi as the Government of all the Mi'kmaq Nation. The authority of our ancient government is and always has been spiritual, and the continuity and authority of our Nation exists in our culture, in a common bond and vision that transcends many boundaries.

To lead the Mi'kmaq along the good path in their domestic relations, and to advocate their interests in foreign affairs, the Creator endows a few of each generation with special knowledge of the woodlands and the ocean, and concerns of the Spirit. Long before our memory, these people of wisdom and responsibility joined together in a body, The Great League, call the Grand Council.

In accordance with our ancient laws and the law of Nations, we recognize two Eurochristian allies. The Church of Rome and The British Crown. In 1611, Grand Chief Membertou, by his baptism and agreement, associated the Mi'kmaq Nation with the Holy See, and ever since we have given the Church of Rome free access to our territory and people. Agents of Great Britain sought us out as early as 1719 to treaty to peace and political association. In 1752, we associated ourselves by treaty with the crown and by this treaty are recognized as the Aboriginal people. Yet we never sold or ceded by deed or by treaty a single inch of our original domain. Our domain was from the rising to the setting sun which included the following geographic area: All of Nova Scotia, most of New Brunswick, the entirety of Prince Edward Island, parts of the Gaspe in the Province of Quebec and sections of Newfoundland.

Because of our special status as (Treaty) as Aboriginal people and because our domain transcends many non-native boundaries, the native population on all Micmac Reservation must be classified as one Single Electorial Boundary, that's the entirety of Nova Scotia. That is my recommendation I give you for a very special consideration. That is one concept of Mi'kmaq Representation by population to the Nova Scotia House of Assembly.

As a member of the Grand Council of the Mi'kmaq Nation and as a private citizen of our great land, I thank-you for giving me the opportunity to address this great assembly of people. Brothers and Sisters, I have spoken.

Noel Knockwood, B.A.
Spiritual Leader and Captain of the
Grand Council of the Mi'kmaq Nation.

Re: Mikmaq State Papers
Russel L. Barsh
Sakej Henderson
Bernie Francis

PRESENTATION

TO

SELECT COMMITTEE ON ESTABLISHING
AN ELECTORAL BOUNDARIES COMMISSION

Thursday, June 13, 1991

at

1740 Granville Street, Halifax

3rd Floor

By

Mr. Dwight A. Dorey

President, Native Council of Nova Scotia

Good afternoon members of the Select Committee of the Nova Scotia House of Assembly. I am Dwight Dorey, president of the Native Council of Nova Scotia, the self-governing authority for the off-reserve Mi'kmaq Aboriginal people of Nova Scotia.

I welcome this opportunity to share some insight and my views on how this Select Committee may best achieve its goals. To this end, I will suggest a fair and equitable methodology as a fundamental principle to this issue of Mi'kmaw representativity:

1) The composition of a Provincial Boundaries Commission on Electoral Redistribution;
2) Terms of reference for the Commission;
3) A timetable for the Commission to complete its report.

If I may briefly overview the Mi'kmaq community in Nova Scotia. In Nova Scotia the Aboriginal people comprise just over 14,000 persons according to Statistics Canada (1985).

The Aboriginal peoples are citizens primarily of the Mi'kmaq nation which inhabits all of Nova Scotia, Prince Edward Island, parts of New Brunswick, and parts of the Gaspe Peninsula.

The Mi'kmaq as a tribal nation of people is a member of the Wabanaki Confederacy which included those Tribal Nations of those Northeastern Aboriginal Tribes of peoples, known as the Maliseet, Passamaquoddy, Penobscot, Wowenock, and Eastern and

Western Abenaki. Each of the tribes of the Wabanaki Confederacy had their own tribal territories which they fought and died for; each had their own political, economic and social systems which they administered for the benefit of its people; each had absolute control over the resources and products of their tribal territories, each had political sovereignty and the aboriginal title to its lands was explicit in this political sovereignty.

For countless generations, the Mi'kmaq governed their own affairs, and flourished as a distinct society of Aboriginal peoples within the context of tested tribal values, societal norms, and tribal territory, as one of the many Aboriginal peoples which inhabit the North American continent.

I will not take your valuable time to recount the historical factors relative to post-contact, save to say that at first contact with white persons--Europeans, the Micmac were treated as a sovereign people and a nation.

During the French/English Supremacy Period 1690-1760, both the English and French treated the Mi'kmaq as sovereign peoples. The English Treaty Period, 1712-1786, saw a host of treaties and adhesions which were entered into between the sovereign Mi'kmaq and the sovereign Crown of England which respected Aboriginal title and rights of the Mi'kmaq in Nova Scotia and more particularly made sovereign solemn promises of friendship and peace. The Colonization Period, 1750-1850, again treated the Mi'kmaq as sovereign people and, indeed, the Crown issued the Royal Proclamation of 1763, again confirming and acknowledging the rights of sovereignty of the Aboriginal peoples of Canada.

The Colonial Period of government in the New World started in 1791 and in Nova Scotia responsible government in 1836 until Confederation in 1867.

The Mi'kmaq, however, sadly at that time, due to a litany of broken promises and, indeed, the colonial attitude of the day, were excluded or discounted as a people and, indeed, were forgotten from Confederation until 1982.

The Mi'kmaq are dispersed province-wide, 4,600 residing today in our approximately 36 on-reserve communities administered by 13 bands and the remaining 9,600 odd, living in all areas, urban and rural, province wide. To date only 8,600 are registered with the remaining still to be registered, or in a process of registration as a result of the work of organizations like the Native Council of Nova Scotia and similar groups in forcing the Federal government to amend the Indian Act of 1985 and correct the brutal injustice of depriving a Mi'kmaw of his or her birthright because of his or her choice of residence.

The Native Council of Nova Scotia since its inception in 1975, first known as the Non-status and Metis Association of Nova

Scotia, has been the advocacy group promoting the equality of treatment of all Aboriginal people regardless of their situation before a Colonial Act and, moreso, of choice of residence in the traditional land of the Mi''kmaq of Nova Scotia.

It is often mistakenly assumed by the white dominant society that the Aboriginal peoples have no political culture--that until the coming of the colonist settlers the Aboriginal people lacked political institutions. This fact is wrong in that the Mi'kmaq people have occupied this part of the world as a distinct society of people dating back to at least 9,000 years as evidenced by Archaeological digs in Debert.

The Six Nation Confederacy of the Iroquois Confederacy, of which the Wabanaki Confederacy linked itself vividly demonstrates, in their bead wampum, the lines of the governmental chain between the Aboriginal people and the white peoples. Indeed, the Mi'kmaq, also having a Wampum belt, give testimony to the peace and friendship born out in their relationship between the newcomers and themselves. The Iroquois beaded belt speaks of:

> "One line is for the laws and religion of the Iroquois. The other line is the law of the white brother. The white background is the peace and that stipulates that we keep our laws and we will not interfere with the white

> man's law. We government ourselves. The other line is that the white man is not suppose to interfere with our law. We are supposed to go together like boats on a stream, one of our people and one of our brother, the white man."

Sadly, during the last 150 years, the laws of our white brother have been used against us and, indeed, have harassed and abused our people to the point where we today are not even looked upon as human beings living, but rather thought of as some form of archaic museum piece. The exclusion and neglect for our voice within your legislatures and within your institutions has taken a dramatic toll on our distinctiveness as a people.

Happily, because we are Mi'kmaq, the years of countless generations and centuries of our society, have survived, and your cultural domination has been unable to erase our pride, our language, our traditions; and our belief that all men are equal and that we are all part of what is around us. Therefore, your laws and institutions have not changed the doctrine of the ecocentric world view held dear by us.

I, also, at this point in time, leave you with some copies of the booklet "History and Achievements of the N.C.N.S.", as well as a "Mi'kmaq Treaty Handbook", which will provide you with some very, very light reading and at the least shed some light on the Mi'kmaq in Nova Scotia.

I had the pleasure of attending the October 1st Treaty Day 1991 celebrations where at the Grand Captain, Alex Denny, of the Sante Mawiomi Wjit Mi'kmaq, representing the Mi'kmaq people of Nova Scotia who would have your consideration for the concept and, indeed, the affirmation that the Micmac hold no grudge against you. That we wish to maintain for today and the future, the peace and friendship that our forefathers and your forefathers promised to live in at this historic location now called Halifax. The Grand Captain's presentation raised the novel concept that the government of Nova Scotia should maybe now explore the establishment of a seat in the Legislative Assembly for a Mi'kmaw who would speak to you directly on matters affecting treaty relations and the Mi'kmaq as a distinct people.

There are many examples of many countries around the world who have honoured their promises to the first peoples of their lands, accommodating similar representative status in their governing institutions. We have the Maori of New Zealand, we have the Australians, American models, in seat legislatures, we have countless governments establishing whole bureaucracies noted as ministries which deal with a whole range of issues directly affecting their Aboriginal brothers. Even in Canada, we have several provincial jurisdictions which have established full ministries of Aboriginal Affairs.

Sadly, in Nova Scotia, the Native Council of Nova Scotia has advocated, since 1976, to have a ministry established in this province without success. Save to say that in 1985 the government of the day adopted a previous government's initiative and had established a subcommittee of the Cabinet to deal with Aboriginal Affairs which has not been effective.

I, on behalf of the Aboriginal people represented by the Council who reside off-reserve, would like this Select Committee to very cautiously and carefully consider that if the government of Nova Scotia is sincere about listening to Mi'kmaq, their concerns and their solutions which will help to bring the co-existence of both societies in true friendship and peace then it would behove to do the following:

1. Acknowledge that there are Mi'kmaq living in every sector of this province and not on-reserve alone.
2. The Select Committee should insure that the conception of a provincial boundaries commission of electorial redistribution involves not only members from Aboriginal Advocacy groups, namely: The Native Council

of Nova Scotia, The Union of Nova Scotia Indians, The Confederacy of Mainland Micmacs, and The Nova Scotia Native Women's Society, but also, would involve lay Mi'kmaq who have in their own right promoted peace and friendship and who hope that one day the majority of Nova Scotians would accept the fact that although there are nearly 14,000 Mi'kmaq in Nova Scotia they are people who have and should be afforded the rights of a people.

I personally can nominate to the committee several names of such persons who would gladly serve on the Commission and, indeed, provide much useful information.

As to the Terms of Reference for the Commission, we would caution that the Select Committee not establish a Commission with a pre-determined or conceived objective of granting a seat to the Mi'kmaq, rather we would like to see a set of Terms of Reference which would seek to explore how best the Mi'kmaq as distinct peoples in Nova Scotia can voice, effectively, their aspirations within your legislative institution. Furthermore, we must ensure that the Legislative Assembly will accommodate greater involvement of Aboriginal People within the political institutions while at the same time, promote the practising of Micmac political governing institutions to co-exist in friendship and peace.

I would like to see a Term of Reference that would insure that the government of Nova Scotia seriously seek to establish a ministry of Aboriginal Affairs wherein the minister would be the Mi'kmaq representative in the House and, moreso, that the ministry itself would employ the greater proportion of Micmac in its administration. For example, I would favour a ministry such as the Manatu Maori, wherein all employees of that ministry are Maori, and not to use the model of the Federal government's Department of Indian Affairs, where the majority persons are non-native.

I would also like to see a Term of Reference which would move the Commission to explore the prospects of how the solemn peace and friendship codified in Treaties, and acknowledged in the Constitution of Canada, could be incorporated as a mission for the government of Nova Scotia to pursue with the Mi'kmaq people to ensure, once and for all, that all peoples resident in Nova Scotia respects the other as contemporary societies practising their heritage, culture, and traditions in the spirit of harmony and well being for all future generations.

As for the timetable, we the Mi'kmaq have for many generations sought to be invited to help build Nova Scotia together, and I think that our patience is well tempered and we need not try to force such important matters to accommodate a partisan view. If it takes three years for the Commission to make its findings, that is fine.

In other words, the processes of the Commission for consultation with the Micmac must not be subject to accommodating a separate political agenda.

In summary, I thank the Select Committee for hearing the presentation of the Native Council of Nova Scotia and I hope that you find forthwith to recommend:

1. that the Commission must look at representation from all Mi'kmaq province-wide on and off-reserve.
2. that the concept of the Commission must and should include, besides the four advocacy groups, lay Mi'kmaw men and women.
3. that the Commission not view its thinking of one seat, a guaranteed seat, but rather explore what is required.
4. that the commission enter into its Terms of Reference the establishment of a ministry of Aboriginal Affairs.
5. that the timetable has a medium of ensuring that what has to be done is done so

as to create new treaty relations which will be lasting.

6. finally, that such new or revised legislation be drafted to accommodate a Mi'kmaq representative in the Provincial legislature, be preambled with a constitutional Sec. 35 non-derogation clause.

224

Submitted by:

Anthony Weagle
Private Citizen
South Brookfield
Queens County, N. S.

At present, there are fifty-two seats in the Nova Scotia House of Assembly. This select committee, checking into the composition of a Provincial Boundaries Commission on electoral redistribution feels one additional member would be an advantage, if a Micmac Seat was created.

"I disagree" No Micmac seats should be created at the Provincial level of government, but Micmac seats must be created at the municipal level of government. Consequently, how can one Micmac seat serve 13 ban councils scattered throughout this Province? Second, if a Micmac seat is created, then it must be non-political.

If government creates one Micmac seat, then government might as well create another seat for the Jehovah's Witnesses. They do not believe in government, or to vote in any federal, provincial or municipal election.

On the other hand, creating Micmac seats at the municipal level of government, would be extremely useful to the Micmac people. Furthermore, they need an education, better living conditions and better economic standards. If fully elected schoolboards are a reality, then Micmacs would have a better educational opportunity, including the studies at the University level. Micmacs must tap into this municipal level of government, through seats via municipal and schoolboard elections.

The Donald Marshall report influenced the idea of a Micmac seat, but if one follows the events leading up to Mr. Marshall's problems, these problems were created at the municipal level of government. Consequently, Mr. Marshall and all Micmacs living in Nova Scotia must receive full municipal services from all municipal units, except one service. "Welfare!" They receive enough welfare type of assistance from the federal government. Instead of receiving welfare, they want jobs and a better standard of living. Maybe creating a Micmac seat is a step in the right direction, but one problem is being over looked. This is a racist problem and the most famous phrase used today is: You, the Micmac Indian, "Does not pay taxes" In my opinion, this is a constitutional problem, which must be solved first, before Micmacs have their seats created at all levels of government.

Paying taxes is one difference between the Micmacs and other minorities such as Blacks and Acadians. Acadians want to save their language and culture. The Blacks wants to do the same, especially their culture. Part of this culture is using theirs hands and language to make a living. There are no tomorrows left because brain power is part of our future. Creating provincial seats for a minority group will not let them use their hands to make a living or to speak a second language. As you know, freedom of education and language is not part of our charter of rights and freedoms.

Furthermore, the need for boundaries that address the communities of interest in the composition of this House, including the Acadian and Black Communities are small and underpopulated. To be truthful, these communities are simply overgrown municipalities and my main reason for them to be part of our system of municipal government. Their public affairs are different and petty but their are far too few individuals of ability and devotion to administer them. To govern such tiny communities separately, with the elaborate organization of a provincial seat in each would simply invite expense, inefficiency, corruption, and low profiles. The remedy is to unite these communities in some real consequence and genuine dignity.

Finally, "Free At Last" the importance of having a person from a minority group serve on this Provincial Boundaries Commission, on this occasion to be a person from the Black community. This Black Individual should re-phrase the words of the Late Martin Luther King. "Yes, I have a dream," he proclaimed, to an audience beyond the Red Chambers of Province House, beyond Halifax, to the great majority in whose hands the future of justice in Nova Scotia lay," "a dream that one day this Province will rise up, live up to the true meaning of its creed: "We hold these truths to be self-evident, that all men are created equal," I have a dream that my children will one day live in Nova Scotia where they will not be judged by the colour of their skin but by the content of their character... I have a dream that we will be able to speed up that day when all God's children, black men, red men, white men, Acadiens, Jews and Gentiles. Protestants and Catholics, will be able to join hands and sing the words written down by a folklawiest Dr. Helen Creighton: namely "The Nova Scotia Song".

BRIEF TO THE HOUSE SELECT COMMITTEE ON REDISTRIBUTION

SUBMITTED BY AKINTUNDE A. ADEKAYODE
SECRETARY, PANAFRICAN DEVELOPMENT SOCIETY

A. PREAMBLE

I was born in Freetown, Sierra Leone, so named for repartriated ex-"slaves" of mostly Loyalist and Maroon Nova Scotians who settled there some two centuries ago. My domicile in Nova Scotia began eighteen years ago; the first two in the employ of The Black United Front and the remaining sixteen with the Canada Employment and Immigration Commission. Both capacities have enabled me to work in, and become quite familiar with may of the forty Black communities in this province. I am, in addition, a keen student of the socio-politics of Blacks at the local, national and international levels. This pursuit led me to hold office in the Panafrican Development Society, which stresses self-reliance as a basis for individual and collective development. I have worked closely with many Black organizations in the province, at both the provincial and local levels.

I am married and reside in Halifax with my wife and three of our four children, all of whom are currently making their way through the socio-psychological minefields that attend our community; whose legendary marginality takes its cue, I submit, from the very political deficiency that this brief seeks to address. My experience of these journeys, albeit vicarious, has yielded tremendous insights into the issues at hand. These predispositions do not make me an expert on constitutional law or electoral reform. They do however, provide me with a unique perspective from which the issue of Black political representation can be advantageously illuminated.

B. OUR POSITION

1. That we, the Black people of Nova Scotia, constitute a Community of Interest whose unique historical, geographical, socio-economic, cultural and psychological dimensions could only be given proper political acknowledgement through the creation of a special seat in the Provincial Legislature.

2. That the redrawing of political boundaries to create a special riding in the Preston area is a separate issue which must stand on it's own and not be linked or confused with (1) above.

3. That in pursuing position 1 above, (the creation of a special seat for the entire Black community) Nova Scotia would not be setting a precedent among the world's true democracies but merely taking a leap into the confines of that prestigious arena.

C. DETAILS IN SUPPORT OF OUR POSITION

1. History

That Mathew de Costa, who worked as an interpreter of French and MicMac in the Annapolis Royal of 1605, was the first recorded Black to live in Nova Scotia is fairly common knowledge. What is little known but of keen interest to Black historians is how de Costa come to learn MicMac and gain sufficient facility in it to work as a translator. Three hypotheses currently vie for favour;

- That de Costa (and perhaps other Africans) must have lived in Nova Scotia prior to 1605.
- That de Costa (and perhaps others like him) must have paid prior visit/s to these shores.
- That de Costa first arrived here in 1605 along with de Monts but was simply a genius who learnt MicMac to a high level of proficiency much faster than his less gifted European companions.

While the debate is as yet inconclusive, it is useful to note that the 3rd hypotheses has been dismissed as too improbable while the 1st is being given a great deal of currency. This would tie in with the discovery by Professor Ivan van Sertima of Rutgers University and others that Africans from Africa came to the Americas centuries before Christopher Columbus and that the MicMac alphabet was brought to these shores by Africans from the north-eastern part of that continent, several centuries before the birth of Christ.

The Black Loyalists came to Nova Scotia in the 1780's, having earned the right to grants of land by fighting as allies of the British during the American Revolution. This "promised" land, for which our ancestors fought and died, has, in the main, remained elusive to this day - a fact which is the essential predeterminant of our impoverished condition in this province.

The Maroons built fortifications on Citadel Hill in 1794, thus contributing to the defence (and survival) of Nova Scotia.

The War of 1812 yielded more Black colonists under similar promises as were made to their Black Loyalist counterparts. Their inheritance once on Nova Scotian soil was equally diabolical.

Black Nova Scotians have made a history of fighting for Canada/Nova Scotia whenever the opportunity was available. We figured prominently in the Crimean war, the First and Second World Wars and in the Korean campaign. To this day, we continue to enlist in the Canadian Armed Forces in very significant numbers.

In the 1900's Black West Indians arrived in Sydney to work in the Steel and Coal-Mining industries. Here too, we have made our contribution to the economic and cultural life of the province.

Prior to 1833, slavery, indentureship and other forms of economic exploition kept us poor and dependent. Since 1833 sundry injustices, rampant discrimination and uncomplementry aculturation have given us a marginal existence in Nova Scotia and a relationship with Africa, our ancestral homeland, which can only be termed a serious case of natal alienation.

2. Never Ending Minority Status

East and South European immigrants to Canada melt into mainstream Canadians in two generations. This option to melt is not readily available to Blacks. Consequently, Black Nova Scotians of 10 generations or more remain identifiably different from mainstream Canadians. This peculiar distinction will continue well into the 22nd century. This fact alone crystalizes the case for unique political representation for all of Black Nova Scotia.

3. The Black and White of It

Of the numerous minority groups in North America/Nova Scotia, Blacks are the only ones that are conceptualized as being antithetic to whites. Although this dicotomy operates at the physical level, it is on the psychological plane that it becomes most mischievous. This plane is strewn with snares, pitfalls, quicksand and, for the least fortunate among us, identity-shattering land mines.

4. Minority Duality

Minority communities tend to live in two overlapping worlds which are roughly coinsident with the larger and minority cultures involved. The degree of overlap which is exhibited often varies from individual to individual, from minority community to minority community, from generation to generation. These two worlds need to be fully supportive of the community's/individual's quest for social viability and self-actualization.

The Black community lags behind all others in realizing this crucia duality. This is indeed, a bitter irony; for a community with a never ending minority status needs to rely on such a duality much more than do communities for which melting provides quick transition (for its individuals) into mainstream membership. Political representation for all Black Nova Scotians will give valuable leadership in this delicate but crucial element of minority existence.

5. Enduring Minority Status Recognized Internationally

Numerus democracies from Maine to New Zealand have given political regognition to this crucial duality by creating special seats for their enduring minorities (and with the option to melt being least readily available to Black Nova Scotians, we are, and will continue to be, the most enduring of this Province's many minorities). These seats typically serve the interests and aspirations of the whole minority community and have worked rather well in underscoring their much valued enfranchisement.

D. CONCLUSION

We have shown that in terms of history, Black Nova Scotians possess citizenship credentials that are the equal of any other group in this province. We have also shown that certain elements of our social and psychological existence, coupled with our dispersal in 40 localities in the province make us a prime candidate for special political recognition.

We understand that an Electoral Boundaries Commission is about to be constitued. We believe that the Black community should be represented on this forum and would not hesitate to nominate the Reverend Darrell Gray to act in this capacity. Quite apart from his academic training in Political Science and his tenure over two terms in the Kansas State Senate, he has followed the issue very responsibly since its inception and has thereby gained the respect and confidence of much of the Black Community.

Lastly, and most importantly, as a result of the issues raised in this brief, it is clear that Black Nova Scotians do constitute a Community of Interest that warrants a separate seat in the legislature. This issue should definitely be placed within the terms of reference of the Electoral Boundaries Commission.

We thank you for the opportunity to present our position to your committee and commend Nova Scotia upon its pursuit of this laudable objective. We would caution however, that much care and forsight be exercised in weighing the issue of special representation for all Black Nova Scotians lest we formulate a construct that may well entrench new inequalities for another two hundred years.

Respectfully submitted,

Akintunde A. Adekayode

cc: The A.V.B.A.
The Black United Front of Nova Scotia
The Black Cultural Centre
The Afro-Canadian Caucas

P.O. Box 13
Port Hood N.S
B0E 2W0

June 10 - 91

Mr Arthur R Donahoe MLA
Halifax N.S

Dear Sir:-

I have been voting in Inverness County for 57 years.

I have served on Executive at the District, Municipal & Provincial Level

I was a member of Mun Executive at the time of setting up Inverness South & Inverness North Counties & fought that decision until the end & still maintain that it should be changed in this next redistribution

The line between Inverness South & North should have been at the Mabou Harbour which is a natural & would have been about equal as to Geography & population - it would add about 2000 votes to Inverness South without thinking of any of Richmond County or Victoria County.

I am Crippled & will likely be unable to attend any Public Hearings -

Please give this Matter your most urgent attention as there will be years before this Subject Comes up again & any decision Made will have a bearing on a Great Many people

Thank you for your Consideration
I will remain

Yours truly

A. R. MacKillop

TEL.: 477-2182 (RESIDENCE)
494-1030 (DALHOUSIE LAW SCHOOL)

BRUCE H. WILDSMITH, B.SC., LL.B., LL.M. (HARV.)
BARRISTER & SOLICITOR

33 WALTON DRIVE
HALIFAX, NOVA SCOTIA
B3N 1X6

June 25, 1991

Arthur Donahoe, Q.C., Chair
Select Committee on Electoral Boundaries
Legislative Committees Office
3rd Floor, Dennis Bldg.
1714 Granville St.
Halifax, NS

Dear Mr. Donahoe and Committee Members:

I am writing in response to the request of the Committee, made at its hearing last Thursday, June 20th, that I submit on behalf of the Union of Nova Scotia Indians a draft of what we suggest the Terms of Reference for the Electoral Boundaries Commission should contain in relation to the Mi'kmaq seat. Our proposal, of course, will reflect the comments we made to the Committee, specifically, (a) that the Terms be broad enough to signal that creative, unorthodox solutions are not foreclosed, and (b) that the process to be followed by the Commission include direct discussions and negotiations with the Mi'kmaq community.

We propose the Terms of Reference contain the following clauses (the numbering is merely suggestive; the style is derived from the New Brunswick O.I.C., there apparently being no format for N.S. available at the time of writing):

1. The Commission shall hold an inquiry into and concerning the following matters:

(a) the constitution and operation of a Mi'kmaq seat in the House of Assembly to represent the Mi'kmaq in the House in a manner consistent with Mi'kmaq wishes, including if deemed advisable consequent amendments to the Rules of the House to better accommodate the effective operation of the Mi'kmaq seat. The Commission is not constrained in its inquiry by the present constitution and operation of other seats in the House of Assembly, and is free to consider and recommend representation of the Mi'kmaq in a manner unique to the Mi'kmaq.

2. In inquiring into the above matters, the Commission shall meet with representatives of the Mi'kmaq to receive

> submissions and discuss with them the constitution and operation of the Mi'kmaq seat, with the object of arriving, if possible, at a consensus and agreement with the Mi'kmaq on such matters. In recognition of the uniqueness of the issue of a Mi'kmaq seat, the Commission shall, upon request of the Mi'kmaq and as is feasible, assist the Mi'kmaq in gathering information and carrying out research on the constitution and operation of aboriginal seats in other legislative assemblies, and in holding information sessions and consultations with and among the Mi'kmaq people.

This wording is intended, not to bind or constrain an independent Commission, but to clarify several matters that might, if left unstated, lead to amiguity and disagreement, namely:

(a) the Mi'kmaq seat need not be like all the rest;
(b) someone should give consideration to how the existing House Rules might marginalize a Mi'kmaq seat that operated differently than all others;
(c) the Commission should engage in direct dialogue and negotiation with the Mi'kmaq so as to ground their recommendations in what the Mi'kmaq might find acceptable;
(d) the Commission has a role to play in assisting the Mi'kmaq, as requested, to inform their people and help develop a consensus.

Should no instructions be provided on these matters there is a distinct danger that the Commission will interprete its mandate as being no different in respect to the Mi'kmaq seat than all the others. The Commission is liable to take the view that silence in its mandate over the Mi'kmaq seat means that the Legislature intended the Mi'kmaq seat, and the Commission's procedure in relation to it, to be fundamentally the same as with respect to all the others. To take such a view might well result in their work being hindered, delayed or even derailed.

Yours faithfully,

Bruce H. Wildsmith

cc.
Dan Christmas, UNSI

P.S. Concerning Mi'kmaq appointment to the Commission, the UNSI is of the view that this is inappropriate in light of the form of dialogue/negotiation we expect to undertake with the Commission. Therefore, we recommend that there be no aboriginal representation on the Commission.

APPENDIX "F"

REPORT AND RECOMMENDATION

TO EXECUTIVE COUNCIL

NUMBER:
DEPT.: 235
DATE:

SUBJECT: Electoral Boundaries Commission

SUBMITTED BY: The Honourable Joel R. Matheson, Q.C., Attorney General

PREPARED BY: Reinhold M. Endres, Louise Walsh Poirier, Department of Attorney General

DEPUTY MINISTER: D. William MacDonald, Q.C.

STAMP

SUMMARY

Establishment of a Provincial Electoral Boundaries Commission

The undersigned has the honour to recommend that the Governor in Council be pleased to make an Order in the following form:

WHEREAS a Select Committee of the House of Assembly, the Select Committee on Establishing an Electoral Boundaries Commission, was appointed on May 24, 1991, by House Resolution 1681, to report to the House of Assembly on the composition and terms of reference of a Provincial Electoral Boundaries Commission and the timetable for its reporting to the House of Assembly;

AND WHEREAS the Report of the Select Committee was presented to the House of Assembly on July 3, 1991, containing the recommendations of the Select Committee respecting the Provincial Electoral Boundaries Commission;

AND WHEREAS it is deemed expedient to implement the recommendations of the Select Committee and cause inquiry to be made, pursuant to the *Public Inquiries Act*, into and concerning a public matter in relation to which the Legislature of Nova Scotia may make laws, in particular, into the electoral boundaries of Nova Scotia;

NOW THEREFORE, the Lieutenant Governor, by and with the advice of the Executive Council of Nova Scotia, and pursuant to the recommendations of the Select Committee on Establishing an Electoral Boundaries Commission, is pleased to:

1. appoint the following persons as Commissioners under the *Public Inquiries Act*

   (a) Professor Ronald G. Landes - Dartmouth, N.S.;
   (b) Mr. C. Denne Burchell - Sydney, N.S.;
   (c) Ms. Alphonsine Saulnier - Salmon River, Digby Co., N.S.;
   (d) Professor Jennifer Smith - Halifax, N.S.;
   (e) Mrs. Carolyn Thomas - East Preston, N.S.; and
   (f) Mr. Sherman Zwicker - Lunenburg, N.S.,

to be known as the Provincial Electoral Boundaries Commission;

2. designate Professor Ronald G. Landes as chairman of the Provincial Electoral Boundaries Commission;

3. refer to the Provincial Electoral Boundaries Commission the Report of the Select Committee on Establishing an Electoral Boundaries Commission, attached hereto as Schedule "A";

4. direct that the Provincial Electoral Boundaries Commission shall:

   (a) inquire into and revise the constituency boundaries of the Province, resulting in a fifty-two member Legislative Assembly, with one additional member to represent the Mi'kmaq people of Nova Scotia, and

   (b) report its recommendations respecting constituency boundaries, including recommended names for each constituency, to the Speaker of the House of Assembly on or before December 31, 1991, or as immediately thereafter as is reasonably possible, but in no case later than in time for consideration of the Commission's recommendations by the Legislature at the Spring sitting of the House of Assembly in 1992,

in accordance with the recommendations contained in Part II of the Report of the Select Committee;

5. authorize the Commission to hold and conduct such hearings, and hear such representations and consider such other information, at such times

and places, as it deems advisable, respecting existing electoral districts and the establishment of new electoral districts in the Province, and the area, boundaries, name, representation and implementation of those electoral districts.

6. authorize the Commission to make rules to regulate its proceedings and conduct its business;

7. direct the Commission to submit a budget to Management Board, for approval by Management Board;

8. subject to guidelines established by Management Board and subject to approval of the budget of the Commission, authorize the Commission to retain the services of such technical, clerical and other personnel, including a secretary and legal counsel, who in the opinion of the Commission are required for the purpose of the inquiry;

9. order that each member of the Commission and its personnel be paid such remuneration as determined in accordance with rates, policies and procedures established by Management Board;

10. authorize the payment of such necessary disbursements, travel and reasonable expenses of the members of the Commission and its personnel as are required in the discharge of their duties, in accordance with rates, policies and procedures established by Management Board;

11. order that remuneration, costs and expenses payable or incurred in the course of the inquiry shall be paid out of the Consolidated Fund of the Province;

12. direct that in the same session of the Legislature in which the Assembly, by resolution, adopts or adopts with alterations the recommendations contained in the Report of the Commission, the member of the Executive Council charged with the administration of the *House of Assembly Act* shall introduce a Bill to establish new constituencies in accordance with the resolution of the House.

Respectfully submitted,

HALIFAX, Nova Scotia
, A.D., 1991.